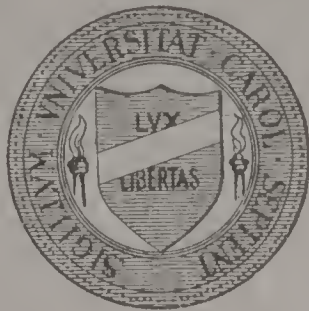


November, 1913

Number 113

# THE UNIVERSITY OF NORTH CAROLINA RECORD



## EXTENSION SERIES No. 5

*North Carolina University Extension Series No. 5*

### *The Initiative and Referendum*

PUBLISHED BY THE UNIVERSITY

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CHAPEL HILL, N. C.

# The University of North Carolina

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# THE UNIVERSITY OF NORTH CAROLINA RECORD

NOVEMBER, 1913

NUMBER 113



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# The High School Debating Union

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## History and Purpose

The High School Debating Union was organized among the secondary and high schools of North Carolina by the Dialectic and Philanthropic Literary Societies of the University during the school year, 1912-1913. It was organized to encourage debating in a definite, systematic way among North Carolina high school students. The query last year was *Resolved, That the Constitution of North Carolina should be so amended as to allow women to vote under the same qualifications as men*. Ninety schools took part in this state-wide debate, and the Pleasant Garden High School, of Guilford County, was the winner of the Final Contest at Chapel Hill and accordingly was awarded the Aycock Memorial Cup. This year the Union has received the additional support of the Bureau of Extension of the University in order to insure its permanence and enlarge its usefulness and scope.

## Query for 1913-1914

The query that has been selected for the members of the Union this year is *Resolved, That the Constitution of North Carolina should be so amended as to allow the Initiative and Referendum in State-wide Legislation*. This query was selected because of the growing importance of the initiative and referendum as methods of popular government. It is thought that by the discussion of this subject the double purpose of debating will be accomplished: the students taking part will be given excellent practice in debating and speaking in public, and the knowledge of the workings of the initiative and referendum will be of direct, practical value to them and to their community audiences in their every day problems of civic life.

## Members of the Union

Every secondary and high school in North Carolina is invited and urged to become a member of the Union and participate in this state-wide debate. Every school that enters will be grouped with two others in a triangle, each school putting out two teams, one on the affirmative and the other on the negative. Every school that wins both of its debates will be entitled to send both of its teams to Chapel Hill to contest for the State Championship and the Aycock Memorial Cup. The triangular debates will be held throughout the State during the latter part of March, and the Final Contest in Chapel Hill will be held early in April. At this time there will come in Chapel Hill the "High

School Week" of the University, during which, in addition to the Final Contest of the Union for the Aycock Cup, there will be held Conferences of high school teachers in the Peabody Education Building, the Inter-Scholastic Track Meet, and a Declamation Contest.

### Regulations

1. The Dialectic and Philanthropic Literary Societies of the University of North Carolina will suggest a query, to be discussed on a given date by the schools entering the Union, and will furnish from the University Library, free of cost, in pamphlet form, such material as will enable them to comprehend and discuss intelligently the various points covered by the question.

2. All secondary schools of North Carolina, however supported, offering regularly organized courses of study above the 7th grade, and not extending in their scope and content beyond a standard four-year high school course as defined by the State Department of Education, shall be eligible for membership in the Debating Union.

3. All schools accepting this offer and thus becoming members of the Union shall be arranged into groups of three, for a triangular debate, the status and standards of the schools, their proximity, accessibility, and convenience of location to be considered in forming the groups.

4. Each school of each triangular group shall agree to furnish two debating teams of two members each, the one to uphold the affirmative side of the query, and the other to defend the negative side.

5. The members of the debating teams must all be *bona fide* students of the school which they represent. To be *bona fide* students, they must have been in attendance at least 30 per cent. of the school year up to and including the day of the debate, and must have made passing grades on a majority of their work. Girls are eligible to participate in the debates as well as boys.

6. The team debating at home shall in each case uphold the affirmative side of the query, and the visiting team shall in each case defend the negative side. If desired, upon agreement among the schools in a given triangle, the debates may be held in neutral territory. The debate between A and B may be held at C; between A and C at B; and between B and C at A.

7. The schools themselves shall select and agree upon the judges of the local contests.

8. Each speaker shall have twenty minutes at his disposal, not more than five of which shall be used in the rejoinder.

9. Any school which shall win both the affirmative and negative sides of the query shall be entitled to send both of its teams to the University, at Chapel Hill, for the State Championship Contest.

10. In the event that one school of a triangle drops out and the committee at Chapel Hill is unable to secure a school to take its place, then the two schools remaining shall debate one another, each sending a team on the negative to the other. If either school wins both of these debates, then it shall send its teams to Chapel Hill for the Final.

11. In the event that two schools of a triangle drop out of the Union and the committee is unable to secure schools to take their places, then the remaining school shall be declared winner over the others, by their default, and shall send its teams to Chapel Hill for the Final.

12. The school having the strongest team on the affirmative side of the query and the school having the strongest team on the negative side shall be entitled to contest publicly in the University Chapel for the Aycock Memorial Cup. (The strongest team on each side of the query is to be determined by means of preliminary contests at Chapel Hill).

13. The school which shall win the debate, thus finally held, shall have its name inscribed on the Memorial Cup, together with the names of its two winning representatives.

14. Any school which shall win out in the Final Contest for two years in succession shall have the Cup for its own property.

15. All high school representatives and principals coming to the University for this contest will be met at the station by a committee and will be entertained free of cost while in Chapel Hill.

### Enter Your School Now

The High School Debating Union is essentially an organization for the secondary and high schools of the State. That it possesses unlimited possibilities for usefulness to every high school pupil and teacher and to every community in the state, goes without saying. Its success, however, and its benefits to those concerned, are wholly dependent upon the support accorded it by the students and school men of North Carolina. In order that its possibilities may be fully realized, see to it that your school—the school of which you are principal, or the school which you attend, or the school in your community—enrolls immediately in the Union.

For further information, address

E. R. RANKIN, *Secretary*,  
HIGH SCHOOL DEBATING UNION,  
Chapel Hill, N. C.

# The Initiative and Referendum

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## Query

Resolved, That the Constitution of North Carolina should be so amended as to allow the Initiative and Referendum in state-wide legislation.

## Limitations

For the sake of uniformity in these debates the following limitations are expressly laid down:

1. A petition signed by eight per cent. of the voters shall be necessary to call into use the initiative in the case of state-wide legislation.
2. A petition signed by ten per cent. of the voters shall be necessary to call into use the referendum for state-wide legislation.
3. The percentage must be based on the total vote cast in the preceding election for Governor. The total vote cast in the election for Governor of North Carolina in 1912 was 243,530.
4. The referendum shall not apply to laws necessary for the immediate preservation of the public peace, health, and safety.
5. It is understood that the initiative in these debates shall not apply to amendments to the constitution.

## Explanation of Terms

The Initiative is the right of an individual or a group of voters to draw up a completely formulated bill and to require, upon petition of a certain per cent. of the voters, that the bill, without amendment, shall be submitted to popular vote.

The Referendum is the right of a fraction of the voters to require by petition that a law or ordinance adopted by the legislative body shall be submitted to popular vote.

A petition under the Initiative must contain a copy of the bill which the petitioners desire to have passed. When presented to the legislative body the bill proposed must follow the regular course prescribed by law. It must be read, referred to committee, printed and reported back for consideration and action. If duly passed and approved it becomes a law, as any other bill would. If it is rejected or if it fails to receive final action in the legislative body, it must be submitted to the people at the next regular election for their consideration and action. While the legislative body cannot prevent the submission of the bill to the people, either by smothering, amending, or de-



feating it, it can submit a substitute measure to be voted upon at the same election.

A petition under the Referendum must be filed with the proper authority, as the Secretary of State, for instance, within a limited number of days after the passage of the bill objected to, during which period all bills of the class to which the referendum is applicable must remain in suspense; the bill objected to must thereupon be submitted to the people at the next election.

If any bill, or amendment, submitted under either of these systems receives a majority of the votes cast at the election thereon, it thereupon becomes a law; otherwise it fails. The best systems of the initiative and referendum provide that the advocates or opponents of a bill submitted may file briefs not exceeding a specified number of words, setting forth their reasons for or against it, which, together with the bill itself, shall be printed for distribution at public expense.

### History

Both the Initiative and Referendum as working principles of government in state-wide legislation and in amendments to the constitution were first used in the Swiss provinces, where they have had a rather long and, to judge from all reports, a very successful operation. Since 1874 the Referendum has been a feature of the government of the Swiss Confederation, and the Initiative was adopted in 1891.

In the United States the Referendum is employed in one form or another in every state and municipality. The constitutions of the states are amended only by the vote of the people of the states. Also, locally, the Referendum is used everywhere to determine such questions as the incorporation of towns, the incorporation of school districts, the issuing of bonds by a community, and to decide such questions as the location of state capitals and county seats.

However, it has not been until comparatively recently that the principles of the Initiative and Referendum in state-wide legislation and in amendments to the constitution have been recognized by the American States. The growth of these methods of popular government in the United States is shown by this significant summary:

#### PROGRESS OF THE INITIATIVE AND REFERENDUM IN AMERICA

- 1898—The electors of South Dakota adopted initiative and referendum amendment by vote of 23,876 to 16,483.
- 1900—The electors of Utah adopted initiative and referendum amendment by vote of 19,219 to 7,786.
- 1902—The electors of Oregon adopted initiative and referendum amendment by vote of 62,024 to 5,668.

- 1904—The electors of Nevada adopted referendum amendment by vote of 4,393 to 702.
- 1904—The electors of Missouri defeated initiative and referendum amendment.
- 1906—The electors of Oregon adopted supplemental initiative and referendum amendment by vote of 46,678 to 16,735.
- 1906—The electors of Montana adopted initiative and referendum amendment by vote of 36,374 to 6,616.
- 1907—The electors of Oklahoma adopted a state constitution, including provisions for the initiative and referendum, by vote of 180,333 to 73,059.
- 1908—The electors of Missouri adopted initiative and referendum amendment by vote of 177,615 to 147,290.
- 1908—The electors of Michigan adopted a constitution containing provision for referendum on laws and initiative on constitutional amendments by vote of 244,705 to 130,783.
- 1910—The electors of Arkansas adopted initiative and referendum amendment by vote of 91,367 to 39,111.
- 1910—The electors of Colorado adopted initiative and referendum amendment by vote of 89,141 to 28,698.
- 1911—The electors of California adopted initiative and referendum amendment by vote of 168,744 to 52,093.
- 1911—The electors of Arizona adopted a constitution containing provision for the initiative and referendum by vote of 12,187 to 3,822.
- 1911—The electors of New Mexico adopted a constitution containing provision for the referendum by vote of 31,742 to 13,399.
- 1912—The electors of the States of Idaho, Nevada, Ohio, Wyoming, Nebraska, and North Dakota adopted initiative and referendum amendments during this year.
- 1912—The electors of Mississippi voted on the initiative and referendum amendment. The result was 25,183 for the amendment and 13,383 against it. Under the constitution, however, it had to receive a majority of all the votes cast in the general election, and the total vote cast by presidential electors was 64,948. Something like 26,000 voters did not vote either for or against it. The legislature of 1914 will probably submit the proposition again.

# THE INITIATIVE AND REFERENDUM

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## THE VOTE ON INITIATIVE AND REFERENDUM MEASURES IN OREGON IN THE YEAR 1910.

Total Vote 120,248.

	Yes	No	Majority Approving	Majority Rejecting	% of Total Vote
Woman suffrage amendment*.....	35,270	59,065	.....	23,795	78
Act authorizing purchase of site, construction and maintenance of branch insane asylum‡ .....	50,135	41,504	8,630	.....	76
Act calling convention to revise state constitution‡ .....	23,143	59,974	.....	36,831	69
Amendment providing separate election districts for members of the General Assembly‡ .....	24,000	54,252	.....	30,252	65
Amendment permitting classification of property for purposes of taxation‡ .....	37,619	40,172	.....	2,553	64
Amendment authorizing establishment of railroad districts and purchase and construction of railroads‡ .....	32,844	46,070	.....	13,226	65
Taxation amendment authorizing uniform rule of taxation "except on property not specifically taxed," etc‡ .....	31,629	41,692	.....	10,063	61
An act increasing judge's salary in eighth judicial district‡ .....	13,161	71,503	.....	58,342	70
Bill to create Nesmith county* .....	22,866	60,591	.....	37,725	69
Bill to maintain state normal school at Monmouth* .....	50,191	40,041	10,147	.....	75
Bill to create Otis county* .....	17,426	62,016	.....	44,590	66
Bill providing for annexation of portion of Clackamas county to Multnomah county*..	16,250	69,002	.....	52,752	71
Bill to create Williams county* .....	14,508	64,090	.....	49,582	65
Amendment providing for county regulation of county taxation and abolishing poll tax*.	44,171	42,127	2,044	.....	72
Amendments providing for city local option*.	53,321	50,779	2,542	.....	86
Bill to fix liability of employers*.....	56,258	33,943	22,315	.....	75
Bill to create Orchard county*.....	15,664	62,712	.....	47,048	65
Bill to create Clark county* .....	15,613	61,704	.....	46,091	64
Bill providing for permanent support, by taxation, of Eastern Oregon State normal school .....	40,898	46,201	.....	5,303	72
Bill providing for annexation of portion of Washington county to Multnomah county..	14,047	68,221	.....	54,174	68
Bill providing for permanent support, by taxation, of Southern Oregon State normal school* .....	38,473	48,655	.....	10,182	72
Amendment prohibiting manufacture and sale of intoxicating liquors* .....	43,554	61,221	.....	17,681	87
Bill to make prohibition amendment effective*.	42,651	63,564	.....	20,913	87
Bill creating board of commissioners to examine and report on employers' indemnity for injuries* .....	32,224	51,719	.....	19,495	69
Bill prohibiting the taking of fish from Rogue river except by hook and line* .....	49,712	33,397	16,315	.....	69
Bill to create Deschutes county* .....	17,592	60,486	.....	42,894	65
Bill to provide for creation of new towns, counties, and municipal districts by popular vote within territory affected* .....	37,129	42,327	.....	5,198	66
Amendment permitting counties to incur indebtedness beyond \$5,000 to build roads*..	51,275	32,906	18,369	.....	70
Bill extending primary law so as to allow voters to express their choice for candidates for president and vice-president, presidential electors, and delegates to presidential conventions* .....	43,353	41,624	1,729	.....	71

\*Submitted under the initiative.

†Submitted under the referendum upon legislative act.

‡Submitted to the people by the legislature.

THE VOTE ON INITIATIVE AND REFERENDUM MEASURES IN OREGON  
IN THE YEAR 1910—*Continued.*

	Yes	No	Majority Approving	Majority Rejecting	% of Total Vote
Bill to create board of inspectors of state government and providing for bi-monthly reports* .....	29,955	52,538	.....	22,583	68
Amendment extending initiative, referendum and recall powers of the people, etc*.....	37,031	44,366	.....	7,335	67
Amendment providing for verdict of three-fourths of jury in civil cases and separate summons for grand and trial jurors; authorizing certain changes in judicial system and procedure of supreme court; fixing terms of supreme court, and official tenure of all courts* .....	44,538	39,399	5,139	.....	69



# Brief

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## Initiative and Referendum

Resolved, That the Constitution of North Carolina should be so amended as to allow the Initiative and Referendum in state-wide legislation.

### Introduction

- I. Certain evils existing in the various state governments have aroused wide-spread discussion as to the possible means of their elimination.
- II. Many statesmen and reformers are advocating, as a remedy, the adoption of the Initiative and Referendum.
- III. The fundamental idea behind the Initiative is that the voters in the state may at their own option suggest and vote upon given measures, irrespective of any action by the state legislature. If a majority of those casting ballots vote in favor of the measure, it becomes a law. If a majority be against a measure, it does not become a law.
- IV. The Referendum operates in much the same way. If the legislature passes a measure which does not meet with popular approval, the voters may by means of the Referendum have the question submitted to a popular vote. The legislature is forced to abide by the decision of the voters as expressed at the election.
- V. The Initiative and Referendum are in use in foreign countries and in a number of American states and cities.

### AFFIRMATIVE

- I. The Initiative and Referendum are logical and natural outgrowths in the development of American government; for,—
  - A. They are in harmony with the development that has preceded them. This development has included:
    1. The New England town meeting.
    2. The organization of representative government.
    3. The restrictions that are more and more being placed upon the power of the legislature, such as,
      - a. Governors were formerly selected by the legislature. Now they are elected by a direct vote of the people.
      - b. Presidential electors were formerly selected by the legislatures. Now they are chosen by direct vote of the people.

- c. Members of the judiciary were formerly selected by the legislatures. Now they are chosen by a direct vote of the people.
  - d. Constitutional amendments were formerly drafted and passed by the legislatures. Now, in nearly all states, they are submitted to the people for final ratification.
  - B. They begin at the points where the previous reform measures leave off.
- II. The Initiative and Referendum will secure better government; for,—
- A. They will raise the standard of citizenship; for,—
    - 1. A higher respect for law will be inculcated; for,—
      - a. The voters, themselves, will be the lawmakers. They will respect their own laws.
    - 2. The measures will have profound educational effect; for,—
      - a. The voters will be instructed concerning the issues before them.
      - b. Actual participation in the voting will be educational in itself.
  - B. They will put legislation on a business-like basis; for,—
    - 1. There will be a complete separation of political issues from the personality of candidates for office. Each will be considered upon its own merits.
  - C. They will do away with undesirable legislation, either intentional or unintentional; for,—
    - 1. The power of political machines will be broken; for,—
      - a. The people will have an opportunity to vote directly upon the issues before them. Important questions will not be left to the discretion of a few party leaders.
    - 2. Lobbying will be eliminated from politics; for,—
      - a. The voters, themselves, will actually decide the important measures.
      - b. The knowledge that measures may at any time be put before the people for ratification will cause members of the legislature to vote for each question upon its own merits, rather than be influenced by persons who have interests at stake.
    - 3. The incentive for bribery will be taken away; for,—
      - a. With the possibility of the measure being referred to the voters, the legislators can no longer promise to “deliver” the votes.
- III. The Initiative and Referendum are practical; for,—
- A. They require only the ordinary election machinery.

- B. They are exceedingly simple in operation.
- C. They are comparatively inexpensive.
- IV. The Initiative and Referendum have proved uniformly successful; for,—
  - A. "Boss" rule has been eliminated in South Dakota.
  - B. Granting of special privileges has been prevented in Oklahoma.
  - C. Corporate domination has been done away with in Oregon.
  - D. Switzerland has been signally successful in using the measures.
- V. North Carolina needs the Initiative and Referendum; for,—
  - A. Many sorely needed state-wide laws have failed of enactment whose passage would be hastened by the adoption of this amendment; for,—
    - 1. North Carolina needs a direct primary for the election of all officers.
    - 2. North Carolina needs a corrupt practices act.
    - 3. North Carolina needs further protection for women and children engaged in work in mills and other establishments.
  - B. The passage of this amendment would have a salutary effect in that the Legislature would then be compelled to listen closely to the people in the making of laws; for,—
    - 1. The Initiative and Referendum would give the people the power of enacting desired laws which the Legislature refused to enact, and the knowledge of this fact would make legislators more responsive to the people's will.

## NEGATIVE

- I. The Initiative and Referendum are contrary to the fundamental principles of American government; for,—
  - A. They strike at the very root of representative government; for,—
    - 1. They weaken the power of the legislature; for,—
      - a. They take from it final authority.
    - 2. They take away the responsibility of the members of the legislature.
    - 3. The measures are based on the assumption that the members of the legislatures are either corrupt or ignorant.
    - 4. The measures assume that the mass of the people are more intelligent and wiser than the persons whom they choose to represent them.
  - B. They encourage hasty and unwise action; for,—
    - 1. They are based upon the idea that the popular demand is always the course that should be followed.

- II. The argument that the Initiative and Referendum will secure better government is not valid; for,—
  - A. It is a very simple matter to secure fraudulent signatures on Initiative and Referendum petitions; for,—
    - 1. Petitions are circulated at stations, warehouses and other public places.
    - 2. Petitions are often left lying around in stores for days at a time.
  - B. The Initiative and Referendum give a hasty and immature tone to legislation; for,—
    - 1. They are almost always used in times of public excitement.
- III. The Initiative and Referendum are impractical in actual operation; for,—
  - A. Voters have failed to show any permanent increased interest in public affairs; for,—
    - 1. As soon as the novelty of the plan has worn away they have neglected to come to the polls to vote.
  - B. Voters have been very superficial in their investigations of pending problems; for,—
    - 1. They have evidenced neither interest nor care in voting upon measures.
  - C. Voters have used the measures only spasmodically, and have thus kept legislatures in continual doubt as to what course to pursue.
  - D. Special interests have found it comparatively easy to circularize the state and secure the passage of measures particularly favorable to them.
- IV. Present conditions do not warrant the adoption of such measures as the Initiative and Referendum; for,—
  - A. State governments are comparatively free from abuses; for,—
    - 1. With but few exceptions legislators try honestly to represent their constituents.
    - 2. The legislators are men of unusual ability and intelligence.
  - B. In those instances where unworthy or inefficient legislators are in power, the evil can be remedied by the voters coming to the polls and electing good men to office. The responsibility rests entirely with the people even at the present time.
- V. North Carolina does not need the Initiative and Referendum; for,—



- A. If there were a vital need, as the affirmative contends, for the state-wide laws they propose, it would long ago have asserted itself under our system; for,—
1. Our present system of representative government is in accord with the principles underlying a republican form of government, and is responsive to popular needs.
- B. The working of the Initiative and Referendum in other states is not of such a nature as to justify their extension to North Carolina; for,—
1. There is much dissatisfaction with their working in Oregon and other States.
  2. North Carolina is a conservative State and does not want the Initiative and Referendum until they have proven entirely successful.
  3. At best, they are yet but political experiments.

## References—Affirmative

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### FUNCTIONS OF THE INITIATIVE AND REFERENDUM

(By Jonathan Bourne, Jr., United States Senator from Oregon, in *Annals of American Academy*, September, 1912.)

Briefly summarized, the functions of the initiative and referendum are:

- To restore the sovereignty of the people.
- To educate and develop the people.
- To secure legislation for the general welfare.
- To prevent legislation against the general welfare.
- To eliminate the legislative blackmailer.
- To make our legislative bodies truly representative.

I will discuss each of these in the order mentioned.

The chief function of the initiative and referendum is to restore the absolute sovereignty of the people—to make this in fact as well as in name, a government of, for, and by the people. The word “sovereignty” conveys the idea of supreme rulership and we have taken pride in flattering ourselves that the American people enjoy the power of self-government. And so they do, in theory, but I shall undertake to demonstrate that they do not in practice, except in the few rare instances when, after suffering a long series of abuses, they arise, assert their rights, and temporarily overthrow their political dictators.

The citizenship of every state have seen legislature after legislature enact laws for the special advantage of a few and refuse to enact laws for the welfare of the many. Under the convention system of nominations, which has been universal until the last few years, slates of delegates were selected by men who commercialized politics, and the great masses of the people, unacquainted with political manipulation or too honest to resort to it, had no recourse but to ratify the slate. These specially selected delegates nominated candidates for legislative, judicial and executive offices in accordance with the desire of the boss. The same methods having been pursued in each political party, the voter was given a choice between two sets of candidates each under obligation to, and, therefore, responsible to, the manager of the party machine. Under this system, cities, counties, and states have long been ruled; and the people deluded themselves with the pleasing assumption that this was “self-government.”

Nay, more. This rulership by self-constituted dictators extended to national affairs, and through the misuse of federal patronage, aided by excessive representation in some of the states, control of national con-

ventions has been secured and the will of the people has been ignored. Such rulership will exist in any state not having a direct primary guarded by an efficient corrupt practices act, and it will continue to exist in national affairs until, through the general adoption of a presidential primary, the people obtain the power to select the party candidates free from the dictation of managers of federal machines. Our boasted "sovereignty of the people" has been a myth, a delusion, and a snare—an empty phrase serving chiefly to delay the ultimate assertion of the rights of citizenship.

Realizing that legislatures were habitually misrepresentative and that public servants were selected by private interests has finally inspired the people of this country with new hopes, has aroused them to higher ideals and brought them a "new birth of freedom," so that today the fight for the new independence is waged in every state and in the nation at large.

#### INITIATIVE AND REFERENDUM FOUNDATION OF POPULAR GOVERNMENT

It is the battle for popular government, at the foundation of which lies the initiative and referendum—the power of the people to make laws. Once this power is secured the other popular government features will be added, until conventions, the ready instrumentality of the political dictator, will be abolished and the direct primary, corrupt practices act, and recall will be established. Then we may speak truly of the "sovereignty of the people," for then will exist in their power, to make or unmake laws, to select candidates, and elect public servants; to dismiss from service any elected officer who proves unfaithful, incompetent, or otherwise unsatisfactory. Nothing short of this can fulfill the idea of supreme rulership, which the word "sovereign" conveys.

But let us not be deceived as to the extent and manner of the exercise of this power. It is not proposed that the people shall act directly in all the intricate details of legislation or that legislatures shall be abolished or made needless. Such has not been the experience in my own state, Oregon, where the initiative and referendum have been most employed. At the last general election the people of Oregon voted upon thirty-two measures, the largest number ever submitted at one election. Of these measures, eleven were constitutional amendments, of which four were adopted and seven rejected. Of the twenty-one bills submitted, only five were enacted and sixteen rejected. The result of the direct vote was nine measures adopted. The Oregon Legislature held a forty-day session last January, considered seven hundred and twenty-five bills and two hundred and thirty-five resolutions and memorials. Two hundred and seventy-five of the bills were enacted. Therefore, the extent of substitution of direct legislation is indicated by the ratio of nine to two hundred and seventy-five. This is not exactly "abandonment" of the representative system. Yet Oregon enjoys popular gov-

ernment and the people are sovereign, for they had the power under the referendum to defeat almost any one of those two hundred and seventy-five legislative acts. They have the power to enact any measure the legislature failed to pass.

It is a very general opinion that the American people are afflicted with too much legislation, but, if this be true, the fault lies not with the initiative, as I have just shown. Neither can the initiative be charged with whatever evils may have arisen from hasty or ill-considered laws. The fact is that laws enacted by the people are more carefully prepared, more widely discussed, and more thoroughly considered than are the acts of a legislature. A bill or proposed constitutional amendment submitted under the initiative must be filed with the secretary of state not less than four months before the election. Prior to that time the measure secures publicity through the fact that it must be circulated for the signatures of eight per cent. of the voters. After the bills have been filed the promoters and opponents thereof may file arguments for and against. It is made the duty of the secretary of state to have a full copy of the title and text of each measure, together with the arguments for and against, printed in a pamphlet, a copy of which must be mailed to every registered voter not less than fifty-five days prior to the election. The title of a bill appears in the publicity pamphlet exactly as it will appear upon the ballot. In this way the voter secures the best possible information regarding the provisions of the bills, their merits or defects, and the reason why they should or should not be enacted.

No such opportunity for the study of measures is afforded members of a legislature. The Oregon Legislature, for instance, is in session only forty days and members secure printed copies of the bills introduced no sooner than the end of the first week. Very frequently important bills are introduced after the middle of the session and the members have copies of these before them not more than twenty days. Amendments are frequent, and sometimes these are made as late as the day on which the bill is passed, so that the legislators frequently vote upon bills without knowing their real effect.

We had a conclusive demonstration of this in the Oregon Legislature of 1903, when the legislature repealed a statute which allowed every householder a tax exemption of household goods to the value of \$300. After the legislature adjourned members were astonished to learn that they had repealed such a law, and, at a special session, called within a year, this statute was re-enacted by an overwhelming vote. Four months of public discussion would have disclosed the nature of the bill and would have prevented action not intended.

#### NO HASTY OR UNWISE ACTION

In the exercise of this sovereign power there are other circumstances that guard against unwise action. One argument often used against



the initiative is that a measure submitted under it is not susceptible of amendment after it has been filed in the office of Secretary of State. Instead of being cause for criticism, this is reason for commendation, for experience has shown that one of the common methods by which vicious legislation is secured is to introduce a harmless or beneficial bill and let it secure a favorable report from a legislative committee, but with a slight amendment inserted therein which entirely changes its character or effect in some important particular, thereby serving some selfish interest. When it is known that a bill must be enacted or rejected exactly as drawn, the framers of the measure will spend weeks and months in studying the subject and drafting the bill in order to have it free from unsatisfactory features.

In actual practice in Oregon almost every proposed bill is submitted to a considerable number of men for criticism and suggestions before its final form is determined upon. The original draft undergoes many amendments, and these are more carefully considered than would be the case if the bill were before a legislature. Knowing that the bill will be subjected to the closest scrutiny of all the people for four months, the framers of the bill desiring its passage naturally endeavor to remove every reasonable objection, to make all its provisions perfectly clear, and especially to remove every indication of bad faith. A bill to which there are many serious objections would stand little chance of adoption by a popular vote. When thus drawn and submitted, a bill is in the best possible form, and there is no possibility of its being made the instrument for the enactment of what are commonly called "jokers."

Bills thus drawn may not be perfect, for no human work is perfect, but they will be much better drawn than the great majority of bills presented to a legislature; and, if adopted, will be an improvement upon legislation already in force on the same subjects. The people of a state will never vote against their own interests, hence they will never vote to adopt a law unless it proposes a change for the improvement of the general welfare. Previous to the last election, each voter had fifty-five days in which to consider thirty-two measures, which, with arguments for and against, were laid before him in convenient printed form. This gave him an average of nearly two days for the consideration of each measure. Assuming that many of the bills introduced in one house never appear in the other, each member of the Oregon Legislature was called upon to consider about five hundred bills in forty days, or over twelve each day, besides being compelled to consider many resolutions, motions, and questions of a political character. In my opinion, the individual voters of the state, in the quiet of their own homes in the evening, could better consider and decide upon an average of one bill in two days than the members of the legislature, amid the hurry and strife and personal feeling, incident to a legislative session, could consider and decide upon an average of

twelve bills a day. It is erroneous to assume that the voter is required to pass upon a large number of measures in the few minutes he occupies the booth on election day. Such is not the case. He has several weeks in which to determine how he will vote, and merely takes a few minutes in which to mark his ballot.

#### TO EDUCATE AND DEVELOP THE PEOPLE

I have thus indicated the second function of the initiative and referendum—to educate and develop the people. Establishment of direct legislation places upon the people responsibility for all legislation, for having power to enact or defeat any law, they must be responsible for that which exists. When the people fully understand and realize this responsibility, they study their government more carefully and take deeper interest in the administration of its affairs. Where the initiative and referendum do not exist, people have little encouragement to devote time and effort to the study of public questions, for, even if they desired, they have no power to change laws or conditions. Therefore, chief among the advantages of the initiative and referendum is the unlimited field afforded for individual and community development. Direct legislation establishes equal opportunity in government, for it places in the hands of every man the same machinery for accomplishment that every other man enjoys. It opens the way for men of good ideas and enables the whole community to secure the advantages arising from advanced thought.

Suppression of the individual is one of the results of delegated government; development of the individual necessarily follows adoption of popular government. Suppression of the individual is seen in every convention and every legislative body—city, state and national.

The great masses of the people are always more advanced in thought and ideals than a majority of men who secure positions of power in conventions or legislative halls. This has been demonstrated in numerous instances, which will readily suggest themselves to the minds of readers of this assertion. For instance, throughout the United States there is an overwhelming public opinion, carefully formed, in favor of popular election of United States senators. That opinion has existed in the minds of the people for a decade or more; yet party conventions have failed to endorse the principle and congress failed until recently to submit an amendment to the constitution in accordance with the popular will. The people of the country realize that no man can be elected United States senator by an uninstructed legislature unless he knows the individual members to whom he is primarily obligated for his election; and, what is still worse, in many instances, unless he knows the political boss, campaign contributor, or special interest dominating a number of legislative members sufficient to prevent his election unless there is agreement, express or implied, to favor and

protect with national legislation the dominant interest. The people of the country have long desired to destroy this obligation to individuals and substitute therefor an obligation to the composite citizen; but a majority of members of the senate have only recently advanced to this idea of governmental accountability.

Always there are a few intellectual leaders who are in advance of the masses of the people; but the practical workings of delegated government are such that the masses of the people are always in advance of those individuals who secure political but not intellectual leadership. "Practical politics," under a system of delegated government, brings into power men who are guided more by selfish interest than by general welfare. Popular government reverses this condition and gives power to intellectual leaders rather than to men whose success is due to skill as "practical politicians."

Occasionally there arises a man who is not only an intellectual leader but also a practical politician of such ability as to secure adoption of his ideas, even under a system of delegated government; but these instances are rare. Though working with the old tools of government, an intellectual leader in Wisconsin was able to secure practical adoption of many of his ideas. Greater and earlier success would have attended his efforts if direct legislation had afforded him a means of appealing direct to the people of his state.

#### THE INSTRUMENT OF INTELLECTUAL LEADERSHIP

The power of direct legislation under the initiative and referendum is the practical machinery of intellectual leadership. Without that machinery the intellectual leader is in most cases powerless. How often have we seen this illustrated in conventions and legislatures. Occasionally a man with advanced ideas secures a seat in a party convention, though usually men of that kind are not wanted by the leaders who make slates of delegates; but when the man of originality and progress gets into a convention he finds himself powerless. If he wishes his party to incorporate in its platform a plank embodying an advanced principle in government, he formulates a resolution for that purpose; and, under the rules, that resolution goes to a committee without having been read to the convention. The committee has been carefully selected in advance after consultation among men who, because of their skill in "practical politics," are able to manipulate conventions. Members of the committee know the men to whom they owe their selection and the interests back of the organization. Their action upon the resolution submitted by the progressive delegates is, therefore, in accordance with the wishes of the interest they represent; and when the party platform is read it contains no endorsement of the new idea unless popular demand has forced its adoption. A convention is less progressive than the people; hence



a committee on resolutions is less progressive than a convention; hence the strangulation of new ideas in a convention.

Legislatures that, in theory, represent the people, generally prove to be less advanced in thought than the people themselves. Though legislators are elected by the people, they are in most states nominated by conventions controlled by "practical politicians" backed by campaign contributors. Hence members of a legislature feel an obligation to certain known individuals and their first act is to co-operate with those individuals in the organization of the legislature. This organization includes the appointment of standing committees, which appointments are usually made after consultation with the same "practical politicians" who controlled the nominating conventions, with the result that important committees are so constituted as to make protection of special interests certain. Then, when the legislator with advanced ideas introduces a bill for promotion of the general welfare as against special interest the bill goes to a committee representing special interests and there remains until the close of the session; or, if reported at all, comes to light too late for action or with amendments that change its character. This procedure has been witnessed in every legislature in every state. Applying to a legislature the statement in the last preceding paragraph, a legislature is less progressive than the people; a "graveyard committee" is less progressive than a legislature; hence the strangulation of new ideas in a legislative body.

On the other hand, direct legislation encourages individual development. Under the initiative any man can secure the submission of his ideas to a vote of all the people, provided eight per cent. of the people sign a petition asking that the measure he proposes be so submitted. There is no opportunity for secret strangulation and all the people have the advantage of studying the ideas of the most advanced, and have opportunity to adopt those ideas if they deem such action wise.

#### PROMOTES THE GENERAL WELFARE

This unlimited opportunity for individual accomplishment opens the way for legislation for the general welfare, and, as I view it, only legislation for the general welfare can secure popular endorsement. This opinion is founded upon an analysis of the forces controlling human action. Either impulse or deduction, followed by conviction, controls all human action. If the individual be confronted with the necessity for immediate action, then impulse arising from emotion, such as love, hatred, anger, sympathy, sentiment, or appetite, is the determining force. Without conviction there will be no action.

Individual action should be guided by reason, but is frequently emotional. Community action, as in an election, must be based upon conviction resulting from analysis and deduction. Self-interest is the force controlling every future or postponed action of the individual, not



necessarily always selfish interest, for sometimes the individual is satisfied with his participation in the improved general welfare incident to the action. Generally, however, the individual's action, when unrestrained, is governed by his own selfish and personal interest.

No two people in the world are exactly alike; consequently each individual has a different point of view or idea as to what constitutes his own particular personal or selfish interest. Where individuals act collectively or as a community, as they must under the initiative, referendum and recall, an infinite number of different forces are set in motion, most of them selfish, each struggling for supremacy, but all different because of the difference in the personal equations of the different individuals constituting the community. Because of their difference, friction is created, each different selfish interest attacks the others because of its difference. No one selfish interest is powerful enough to overcome all others! they must wear each other away until general welfare, according to the views of the majority acting, is substituted for the individual selfish interest.

If all the individual units of society were alike, then selfishness would dominate not only the individual but the community action as well. But so long as no two people are alike, just so long will selfishness dominate the individual if permitted to act independently, while general welfare must control all community action; for if the individual can not secure the gratification of his own selfish desire, then he must rest satisfied with the improved general welfare in which he, as one of the units of the community, is a proportional participant.

This logic applies to a community or a class. Under the initiative, referendum, and recall there can be no class or community action against the general welfare of the citizens constituting the zone of action. The individual through realization of the impossibility of securing special legislation for himself and against the general welfare of the community, soon ceases his efforts for special privilege and contents himself with efforts for improved general welfare. Thus the individual, class, and community develop along lines of general welfare rather than along lines of selfish interest.

In further refutation of the unwarranted fear of hasty or unwise community action, I assert that no individual will ever vote for, or willingly assent to, a change, unless satisfied that that change will directly benefit him individually, or that the action will bring improved general welfare to the community, in which event he is satisfied with proportional participation incident to that improvement. In other words, community action determines the average of individual interests, and secures the greatest good for the greatest number, which is the desideratum of organized society.

## PREVENTS SPECIAL LEGISLATION

As a preventive of legislation against general welfare, the referendum operates in two ways. First, it discourages the passage of such measures by a legislature through realization that the people can and probably will defeat the same under the referendum. Second, if such legislation be passed either intentionally or through ignorance of its effect, the people can and will invoke the referendum power and thus prevent its becoming effective.

## ELIMINATES LEGISLATIVE BLACKMAILER

One of the most contemptible enemies of society is the legislative blackmailer—a member of a legislative body who introduces a bill unjustly attacking some business interest with no honest intent but for the purpose of inducing the threatened interests to pay for the abandonment of the measure proposed. A public servant vested with legislative power who thus violates his trust not only injures a private interest but brings the powers of government into contempt. Only physical courage is lacking to make such a man a highwayman or a pirate. His operations are the most dangerous because difficult to prove. The referendum affords a remedy, however, because any interest unjustly attacked in this manner can safely refuse to buy immunity or pay tribute, and, if the unjust bills be passed, can appeal to the people under the referendum, confident that the people will not give their approval to such legislation. Corporations in Oregon have not been held up with “pinch bills” since the initiative and referendum became effective in that state.

## DEVELOPING INFLUENCE ON LEGISLATORS

The initiative and referendum also develop legislators by causing them in their deliberations to keep always in mind the interests and viewpoint of the people whose servants they are. This they will do through a realization that, having power to enact or defeat laws, the people will watch legislative proceedings and hold every legislator accountable for his acts. Under the referendum corruption of members of the legislature is practically eliminated because of the knowledge on the part of the persons desiring special legislation that even though enacted by the legislature, defeat of such laws is within the power of the people.

We have heard much about the “rule of the mob” in connection with the initiative and referendum and the recall. A mob is a body of men acting against law, order, and justice. Legislatures sometimes do this—the people never, if given an opportunity to act in a lawful way. I grant that where wrongs have been long imposed and remedies have been denied, the people finally resort to force to redress their grievances, just as they did in the American Revolution. Resort to force

came only after every peaceful means had been tried in vain and when longer endurance was impossible.

To some this is mob action. I am disposed to give it a higher characterization; and, though it is an overthrow of existing authority, I regard it as the establishment of law and order in the highest sense. When the people of a republic, exercising their inherent right to change their laws and constitutions, vote to adopt new and better systems of government, I deny that this is mob action; it is the establishment of law and order. The overthrow of a misrepresentative system, maintained by political machines enjoying dictatorial powers, and the substitution of a truly representative system means the attainment of higher standards of human justice and equality, and, consequently, of a more peaceful and more nearly perfect government. The voice of the people should be the law of the land; and, since the initiative and referendum and the recall register the voice of the people, they are the best mediums for the establishment of the best governmental principles.

Adoption of the initiative, referendum and recall is in entire accord with the principles on which our government was founded. The most intellectual, most courageous, and most patriotic of the American people in 1776 declared that governments derive their just powers from the consent of the governed, and that it is the right of the people to alter or abolish their form of government and to institute new government, laying its foundation on such principles and organizing its powers in such form as to them may seem most likely to effect their safety and happiness. Years of experience with legislatures chosen by special interests and executive administration wielding patronage powers sufficient to force re-nomination, have convinced the American people that there is need for the initiative and referendum in the several states and for the other popular government laws, the direct primary, efficient corrupt practices act, recall, and, nationally, a presidential preference law which will destroy the power of an administration to perpetuate itself in office or dictate the selection of its successor. The possession of the powers comprehended by these laws is sovereignty and the restoration of popular sovereignty is the chief function of the initiative, referendum and recall.

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## THE INITIATIVE AND REFERENDUM

(By E. J. Justice, delivered in the House of Representatives at Raleigh, on Tuesday, October 7, 1913.)

Those who favor the principles of the initiative and referendum appreciate that it is not a substitute of direct for representative government, but is an aid to representative government to guard against its becoming misrepresentative. They realize that representative govern-



ment is a conventional system of legislation without calling into action the great body of the people, and thereby avoiding in most instances troubling the people with doing the things which can be done for them by their agents and representatives under the present system of representative government. There is nothing in the proposed bill which will disturb representative government, when it is representative, but there are often instances when so-called representative government is representative of special privileges and misrepresentative of the interest of the people. When this is true, it is a crude and inadequate system of government that furnishes no machinery whereby the people can assert their will and enact it into law. Representative government is merely a convenience, and an agency, subject by right to the direct control of the people. It is not sufficient to assert this as a principle, but those who believe it, should not hesitate to provide machinery to make it possible for the people to put this principle into action. This State and each of the other states in the American Union was founded upon the principles that the people were sovereign, and had a right, if they pleased, to manage their government directly, and that this right was inalienable and indefensible; that under this right the people should have the power directly to order, amend, or abolish any law. Every state constitution in the American Union declares and exemplifies this fundamental principle, and each of the constitutions of the several states, except one, was established by this direct law-making power of the people.

In North Carolina the constitution of the state cannot be changed without the direct vote of the people. The people have not had confidence enough in the wisdom of the General Assembly to allow it, without their approval at a general election, held for the entire State, to change their organic laws. This would indicate that the people of North Carolina believe, and in this respect they put into practice, the theory, that all of the people are more intelligent than a part of them. This theory is absolutely correct, and the application of it in this instance is necessary in order to safeguard the rights of the people. Those states which have the initiative and referendum have not been troubled with too frequent elections, but have made their governments representative by merely having in their possession the power to prevent them from being misrepresentative. The bill proposed provides for all state elections under the initiative and referendum to be held at regular general state elections. Those who have observed the workings of the initiative and referendum in states which have it, have been compelled to admit that the reducing to practice of the theory of our government, that all government derives its just powers from the consent of the governed, is workable, sound and beneficial. The initiative and referendum merely gives to the people the option to use it when they think they have been misrepresented by their agents.



The Declaration of the thirteen states of America, which was issued July 4, 1776, said: "Whenever any form of government becomes destructive of these ends (that is, the ends recited in the Declaration of Independence) it is the right of the people to order or abolish it, and to institute government, laying its foundations on such principles and organizing its powers in such form as to them shall seem most likely to affect their safety and happiness."

The constitution of North Carolina adopted in 1776 declared: "That all political power is vested in that derived from the people only." Under the present laws of North Carolina, it is impossible for the people to have an opportunity to vote on an amendment to the constitution, unless they are permitted to do so by the vote of three-fifths of each House of the General Assembly; or, unless a convention of the people is called by two-thirds of all the members of each House of the General Assembly. Thus a minority of either House of the General Assembly prevents the people from having an opportunity to express their will with respect to any change in the constitution. Under the present law, all the people might petition the General Assembly for an opportunity to vote on a proposed amendment to the constitution, and a minority of either House of the General Assembly could refuse this.

This machinery does not comport with the Declaration of Rights in our present constitution, which is in part as follows: "That all political power is divested in and derived from the people; all government of rights originate from the people; is founded upon their will only, and is instituted only for the good of the whole." The provisions of the proposed amendment do conform to this declaration of rights in our constitution and with the principle upon which our government is founded. I do not think that the adoption of the initiative and referendum by the several states indicates that it will be adopted by the United States. There are many reasons why it is workable in the states that do not apply in the case of the general government.

The President of the United States, Mr. Wilson; the Secretary of State, Mr. Bryan, and others of the greatest reformers of the day, are unqualifiedly committed to the principle of initiative and referendum.

#### WILSON'S VIEWS

On August 6, 1911, in the *Outlook*, the present president of the United States, who was then governor of New Jersey, said: "For fifteen years I taught my classes the initiative and referendum would not work. I can prove it now; but the trouble is they do. \* \* \* Back of all other reforms there is the means of getting it. Back of the question 'What do we want?' is the question 'How are we going to get it?' The immediate thing we have got to do is to resume popular government. \* \* \* We are cleaning house,

and in order to clean house, the one thing we need is a good broom. The initiative and referendum are good brooms." The Democratic party declared in its platform in 1900: "We favor direct legislation wherever practicable." In 1908 it declared: "We rejoice at the increasing signs of an awakening throughout the country." The various investigations have traced grafts and political corruption to the representatives of special privilege classes and laid bare the unscrupulous methods by which they have debauched elections, and laid oppression upon a defenceless public through subservient officials, whom they have raised to place in power. The conscience of the nation is now aroused and will free the government from the grip of those who have made it a business asset. It must become, again, the people's government, and be administered in all departments according to the Jeffersonian maxim, "Equal rights to all; special privileges to none." Shall the people rule? is the overwhelming issue which manifests itself in all the questions now under discussion. Party lines will be broken down, and the people who believe in representative government will come together to fight for it, unless existing parties make themselves instruments for the accomplishment of the people's wills. The people can only rule by having the right of direct legislation, which they may exercise at their option when they need to exercise the right to prevent misrepresentation. They do not wish to exercise this right except in important cases. They prefer their representative to make, judge, and execute the law; but they demand that this shall be done in the fear of God and the service of the people. It is only when their representatives fail to represent the people, that the people care to exercise direct power. Under an arrangement whereby the people may exercise direct power at their option, the representatives would make it unnecessary for the people to resort to this power; because of the "big stick" of public opinion's being available through the initiative and referendum the representatives will respond to mature and deliberately formed public opinion and serve the people under these circumstances, when they might not if the people had no power to correct abuses.

#### SEVENTEEN STATES ADOPT PRINCIPLE

Seventeen of the States of the American Union have adopted the principle of the initiative and referendum, and it has never been departed from, where once adopted. It is now, or has this year, been before the people in four other states. It has never been defeated but once, and that was in Missouri, and subsequently the people of Missouri reversed themselves and adopted it, and now have it in operation. The initiative and referendum mean the adoption of machinery necessary for the complete overthrow of corrupt political machines. The last platform of the Democratic party contains these words: "The Democratic party offers itself to the country as an agency through which the

complete overthrow and extermination of corruption, fraud and machine rule in American politics can be affected." The State Farmers' Union, composed of forty thousand citizens and voters, has several times in recent annual meetings endorsed the recommendation of its president favoring the adoption of the initiative and referendum in North Carolina. One of the advantages of the initiative and referendum when put into practice, is, a salutary increase of responsibility is thereby thrown upon the voter. It brings him to some purpose into closer touch with governmental affairs; it enables him to settle something at an election besides the party label of an officeholder, which in turn settles little except which man shall draw the salary.

Some people profess to believe that the option vested in the people to reverse its representatives will result in "mob rule." This must be taken to mean that the people, after weeks of deliberation and with adequate information, would not support such schemes of so-called representatives of the people. This is not "mob rule." "Mob rule" finds its most promising field in nominating conventions and mass meetings held at times and under circumstances when the people are taken unawares. The initiative and referendum is a safeguard against the only thing likely, with us, to lead to violent revolution; namely, machine rule for the benefit and privilege of a few. Majority rule excludes both "mob rule" and machine rule.

The late Associate Justice Brewer, of the United States Supreme Court, put the case accurately and well when he said:

"The two supreme dangers that menace a democratic state are despotism on the one hand and mob rule on the other. The more constant and universal the voice of the people makes itself manifest the nearer do we approach to an ideal government. The initiative and referendum make public opinion the controlling factor in the government. The more promptly and fully public officers carry into effect such public opinion, the more truly is government of the people realized."

#### BENEFIT TO ELECTORATE

One who is in a frame of mind to consider new things on their merits cannot help but feel that the standard of thought of the public would be, in the long run, the most important feature of the system. It tends automatically to produce a highly trained and self-respecting electorate, and to lay the deepest and most promising foundation for permanent good. It is the only orderly means known for accurately and unmistakably ascertaining the public desire, and for making this desire prevail. It is as effective a balance wheel against mere popular clamor, as it is a safeguard against the silent scheming of the few. It opens for the first time, a fair prospect for the early realization of the cherished American ideal: "A government by the people, for the people and of the people."



The important features of the bill proposed by your committee are: First, that when a petition signed by fifteen per cent. of the voters of the entire State request it, there shall be at the next regular general election, a vote by the people upon a particular proposition to amend the Constitution. This fifteen per cent. must not only be fifteen per cent of the entire voters of the state, but it must include fifteen per cent of at least fifty different counties of the state. Second, it provides that when five per cent of the people petition the enactment of a particular law, the General Assembly shall either enact it or refuse to enact it; and, if they refuse to enact it, upon the adjournment of the General Assembly, a petition of ten per cent more of the people of the entire state will require the submission of the law to the voters of the state at the next regular general election. Third, when ten per cent. of the people indicate by petition that they are dissatisfied and object to a particular law passed by the General Assembly and ask for a vote on it, that question shall be submitted to the people at the next regular general election. In each case where a given per cent. of the voters are required to sign a petition, it is provided that not only that per cent of the voters of the entire state, but that per cent of the voters of at least fifty counties of the state. In that way it will be certain that no election can be held unless the sentiment for it is general. Fourth, provision is made for the General Assembly to provide for the people of particular counties or cities or towns to demand a vote with respect to matters that affect these limited territories. The machinery for putting into operation these petitions, how they shall be signed and verified, and for holding the elections, is either provided for in the proposed amendment or there is a direction to the General Assembly to make provisions for carrying out this amendment. The machinery is similar to that adopted in other states where the initiative and referendum has worked with general satisfaction.

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“WHAT HAVE THE PEOPLE OF OREGON ACCOMPLISHED  
WITH THE INITIATIVE AND REFERENDUM?”

OREGON CITY, OREGON, March 16, 1910.

Answering your question, “What have the people of Orgeon accomplished with the initiative and referendum,” I set down the following acts.

1. They have made a direct primary nominating elections law that is much more satisfactory in its results than was the old convention plan.
2. They have adopted practical methods of selecting their United States senators, securing election by the legislature of the candidates selected by the people, thereby abolishing the greatest single source of corruption, waste, and confusion in the legislature.



3. They have destroyed the political machine and the job of the party bosses.

4. They have abolished railroad passes within the State for public officers as well as for private individuals.

5. They have stopped the grafters' sale of franchises in Portland and other cities.

6. They have deprived the legislature of power to call a constitutional convention without the people's approval on referendum vote.

7. They have given cities home rule in charter making.

8. They have taught the legislature to respect the constitutional provision against putting special appropriations in the general appropriation bill.

9. They have added the recall to the constitution, giving the people the power to discharge state and local officers who prove incompetent or untrustworthy.

10. They have removed the constitutional restrictions preventing proportional representation and the election by a majority instead of a plurality vote.

11. They have passed laws rejected by the legislature for taxing certain corporations.

12. They have rejected some unpopular appropriations made by the legislature.

13. They have made a stringent law against the excessive use of money in elections; a law which is designed, so far as money is concerned, to put a poor man on equal footing with a rich man in seeking public office. It limits candidates to an expense hardly exceeding one-fourth of a year's salary in the office sought, and the State bears a large part of the outlay in the distribution of literature for parties and candidates.

14. They have made a start toward protecting and preserving salmon and sturgeon in the Columbia river and its tributaries.

15. They are developing a sense of individual responsibility for the success of self-government in Oregon, such as most men never felt when the legislature had the exclusive right to make laws and propose constitutional amendments.

16. In addition to the above list of results, other measures have been secured and the people have rejected eleven measures, some proposed by initiative petitions and some proposed by the legislature.

WILLIAM S. U'REN.

TO THE DIRECT LEGISLATION LEAGUE OF THE STATE OF WASHINGTON,  
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## “A CHARTER OF DEMOCRACY”

(By Theodore Roosevelt, before the Constitutional Convention of Ohio, February 21, 1912.)

I believe in the initiative and referendum, which should be used not to destroy representative government, but to correct it whenever it becomes misrepresentative. Here, again, I am concerned not with theories but with actual facts. If in any State the people are themselves satisfied with their present representative system, then it is of course their right to keep this system unchanged; and it is nobody's business but theirs. But in actual practice it has been found in very many states that legislative bodies have not been responsive to the popular will. Therefore I believe that the state should provide for the possibility of direct popular action in order to make good such legislative failure. The power to invoke such direct action both by initiative and referendum, should be provided in such fashion as to prevent its being wantonly or too frequently used. I do not believe that it should be made the easy or ordinary way of taking action. In the great majority of cases it is far better that action on legislative matters should be taken by those specially delegated to perform the task; in other words, that the work should be done by experts chosen to perform it. But where the men thus delegated fail to perform their duty, then it should be in the power of the people themselves to perform the duty. In a recent speech Gov. McGovern, of Wisconsin, has described the plan which has been there adopted. Under this plan the effort to obtain the law is first to be made through the legislature, the bill being pushed as far as it will go; so that the details of the proposed measure may be threshed over in actual legislative debate. This gives opportunity to perfect it in form and invites public scrutiny. Then, if the legislature fails to enact it, it can be enacted by the people on their own initiative, taken at least four months before election. Moreover, where possible, the question actually to be voted on by the people should be made as simple as possible.

In short, I believe that the initiative and referendum should be used, not as substitutes for representative government, but as methods of making such government really representative. Action by the initiative or referendum ought not to be the normal way of legislation; but the power to take it should be provided in the constitution, so that if the representatives fail truly to represent the people on some matter of sufficient importance to rouse popular interest, then the people should have in their hands the facilities to make good the failure. And I urge you not to try to put constitutional fetters on the legislature, as so many constitution makers have recently done. Such action on your part would invite the courts to render nugatory every legislative act to better social conditions. Give the legislature an entirely

free hand and then provide by the initiative and referendum that the people shall have power to reverse or supplement the work of the legislature should it ever become necessary.

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“FREEMEN NEED NO GUARDIANS”

(By Woodrow Wilson, in his book “The New Freedom.”)

I believe, as I believe in nothing else, in the average integrity and the average intelligence of the American people, and I do not believe that the intelligence of America can be put into commission anywhere. I do not believe that there is any group of men of any kind to whom we can afford to give that kind of trusteeship.

I will not live under trustees if I can help it. No group of men less than the majority has a right to tell me how I have got to live in America. I will submit to the majority, because I have been trained to do it,—though I may sometimes have my private opinion even of the majority. I do not care how wise, how patriotic, the trustees may be, I have never heard of any group of men in whose hands I am willing to lodge the liberties of America in trust.

If any part of our people want to be wards, if they want to have guardians put over them, if they want to be taken care of, if they want to be children, patronized by the government, why, I am sorry, because it will sap the manhood of America. But I don't believe they do. I believe they want to stand on the firm foundation of law and right and take care of themselves. I, for my part, don't want to belong to a nation, I believe that I do not belong to a nation, that needs to be taken care of by guardians. I want to belong to a nation, and I am proud that I do belong to a nation, that knows how to take care of itself. If I thought that the American people were reckless, were ignorant, were vindictive, I might shrink from putting the government into their hands. But the beauty of Democracy is that when you are reckless you destroy your own established conditions of life; when you are vindictive you wreak vengeance upon yourself; the whole stability of a democratic polity rests upon the fact that every interest is every man's interest.

There are tasks awaiting the government of the United States which it cannot perform until every pulse of that government beats in unison with the needs and desires of the whole body of the American people. Shall we not give the people access of sympathy, access of authority, to the instrumentalities which are to be indispensable to their lives?

## A TWO BILLION DOLLAR DELAY

(From the Prospectus of the National Popular Government League.)

The Income Tax amendment to the constitution of the United States is adopted but it has taken 18 years of fighting to secure it since the law passed by Congress was declared unconstitutional in 1895. During this time the wealth of the nation has escaped just taxation for the support of the national government in a sum estimated at not less than \$2,000,000,000, *which the rest of the people have had to make good.*

The Supreme Court has, by interpretation, several times amended the Constitution in effect. It wields not only judicial but sovereign and legislative powers. Today tremendous new problems press for solution. But no legislation for the social, economic or political betterment of the people is valid if five men—a majority of the Supreme Court—happen to construe it as inconsistent with a Constitution written a century and a quarter ago.

If we attempt to amend the Constitution here is what we find.

It is possible for 33 *men* (Senators) out of a total of 531 members of Congress to prevent the submission of any amendment however much needed. It is possible for majorities in the legislatures of the 13 smallest states, representing *one-fortieth* part of the population of the nation to prevent the adoption of any amendment.

How can majority rule obtain, or the will of a people be expressed in a government where five men can, by judicial decision, veto national and state legislation, and an absurdly small minority frustrate any attempt to modify the fundamental law of the land?

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NINETY YEARS FOR ONE AMENDMENT

(From the Prospectus of the National Popular Government League.)

The direct election of the United States senators was first proposed 90 years ago, and for over 40 years a majority of the American people have vigorously and persistently demanded this reform. When we pause to consider the number of prolonged senatorial “deadlocks” which have occurred during that time, with the attendant corruption of state legislatures and neglect of their proper business, to say nothing of the record of the Senate itself, the moral and financial cost to the nation of this long delay staggers the imagination.



## References—Negative

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### “REPRESENTATIVE AS AGAINST DIRECT GOVERNMENT”

(By Samuel W. McCall, in the *Atlantic Monthly*, Volume, 108, October, 1911.)

It is not always that there is a direct relation between sound and fury of language and its real meaning, but such imposing words as the Initiative, the Referendum, and the Recall do not indicate innovations of a light and trifling kind in the character of our institutions. As the doctrines which they convey are practiced in some of the states of the Union, and as they are proposed for adoption in other states, they involve no less than a radical change in our method of government. In effect, they propose the substitution of direct for representative government, the establishment of the direct action of the people, not merely in selecting their agents, but in framing and executing their laws.

To most of us the proposals are full of novelty, and it is not too much to say that, as a people, we have given them no consideration worthy of the name. Have we explored the past to learn whether similar experiments have been tried; and, if tried, what has been the effect? Have we reflected upon the obvious limitations upon the utterance by great masses of men of final and definite regulations for the conduct of a complex society? Have we considered to what extent the most doubtful results under our present structure of government are due to the overzeal of representatives to respond to the transient and noisy, and often misleading, manifestations of popular opinion, and to their failure to act bravely as the instruments, not of the peoples' passions, but of their interests, and to require them to select other agents, if they shall insist upon the doing of wrong?

At the threshold of the discussion we encounter the usual epithets. The advocates of change are apt to seek popular favor by decorating themselves and their proposed innovation with some lofty adjective, and in a similar fashion to cover their opponents with obloquy. The quality assumed by the proponents of one or all of this trinity of reforms may be expressed in the word 'progressive.' They are advocating 'progressive' methods of government, while those who disagree with them stand for reactionary methods. 'Progressive' is an alluring word. Everybody believes in progress if it be of the proper kind, and a due amount of vociferation on the part of those claiming a monopoly of the virtue may serve to banish skepticism as to the kind. But if the question were to be settled by epithets, there is some ground at least for asserting that they should be transposed in their application. Repre-

sentative government is comparatively modern; direct government of the democratic kind is ancient; and the latter was deliberately discarded for the former by the founders of our government. I will not cite such a statesman as Madison, not because the heavy debt which the cause of free and regulated popular government owes him can ever be discharged, but because in the passionate rhetoric of the self-styled 'progressive' he is set down as a reactionary. I will choose an authority who still remains above suspicion, and will take the author of the Declaration of Independence, which even today is considered radical in its democracy. In speaking of 'the equal rights of man,' Thomas Jefferson declared that:—

"Modern times have the signal advantage, too, of having discovered the only device by which these rights can be secured, to wit,—government by the people, acting not in person, but by representatives chosen by themselves."

The framers of the constitution were entirely familiar with the failure of direct democracy in the government of numerous populations, and they were influenced by their knowledge of that failure in devising our own structure of republication government. It is now proposed to abandon the discovery of modern times, to which Jefferson referred, and which he declared to be the only method by which rights can be secured, and to put in its stead the discarded device of the ancients. Who, then, are the reactionaries; those who are opposed to the substitution of direct for representative government and are in favor of the progressive principles of the American Constitution, or the supporters of direct government who advocate the return to the reactionary policies which thousands of years ago demonstrated their destructive effects upon the government of any considerable population? It does not follow that to be a reactionary is to be wrong. The wise reactionary may sometimes preserve the government of the state, and even its civilization. Whether the Initiative, Referendum, and Recall embody sound political principles must be determined by other tests. But their advocates should not masquerade. If they choose to attach to themselves any label, they should frankly spread upon their banner the word 'reactionary'.

The framers of our constitution were endeavoring to establish a government which should have sway over a great territory and a population already large and which they knew would rapidly increase. They were about to consummate the most democratic movement that had ever occurred on a grand scale in the history of the world. They well knew from the experiments of the past the inevitable limitations upon direct democratic government, and, being statesmen as well as democrats, they sought to make their government enduring by guarding against the excesses which had so often brought popular government

to destruction. They established a government which Lincoln called 'of the people, by the people, for the people,' and in order effectively to create it they adopted limitations which would make its continued existence possible. They knew that, if the governmental energy became too much diluted and dissolved, the evils of anarchy would result, and that there would follow a reaction to the other extreme, with the resulting overthrow of popular rights. They saw clearly the line over which they might not pass in pretended devotion to the democratic idea without establishing government of the demagogue, by the demagogue and for the demagogue, with the recoil in favor of autocracy sure speedily to follow; for they knew that the men of the race from which they sprang would not long permit themselves to be the victims of misgovernment, and that they would prefer even autocracy to a system under which the great ends of government should not be secured, or should be perverted.

We are in danger of forgetting the essential purpose of government: that it is not an end, but a means, that the people do not exist for the government but that the government exists for the people. The idolatry of government, or of its institutions, has been as debasing and injurious as any idolatry that has ever afflicted mankind. It has frequently been the agent of gross and wholesale oppression; it has frequently been the means by which many have been kept in servitude and subjection; and, until the establishment of our own system, the governments have been few which have had for their chief purpose to safeguard and protect the individual, and hold over him the shield of law, so that he might be secure in his life, his liberty, the fruits of his labor, and in his right as an equal member of the state.

And when I speak of the individuals, I mean the chief thing that is essential in the meaning of the term 'the people.' I do not accept the latter term in the sense in which it is so often sweetly used by those who desire our votes. I am unable to see how any good, coming to a mass of men, can be felt in any other way than by the individuals in the mass. And until somebody shall point out a higher consciousness than that of the individual man or woman or child, he can hardly be heard to deny that the individual man or woman or child is the ultimate concern of the state.

The notion that there is a collective personality called 'the people,' separated from the individuals who compose it, and which may be used to oppress each one and all of its component parts in turn, may well have been a conception of the Greek demagogues by whom it was so fittingly illustrated in practice. I cannot understand how there can be any freedom that is not in the last analysis individual freedom. However great a mass of men you may have in a nation, however powerful physically it may be, if each individual is the victim of oppression, if he is denied rights, if there is no forum open to him, where he



can be heard to say against a majority, 'This is mine,'—then 'the people' have no such thing as liberty, they have no such thing as popular rights. As to the 'composite citizen,' he obviously is nobody who ever has existed, or ever will exist. When the advocates of a reform, ignore the man of flesh and blood in the street, or conduct the operations with reference to this mythical person they should emigrate to Utopia.

Is it for the interest of the individual members of our society to have the great mass of us pass upon the intricate details of legislation, execute our laws and to administer justice between man and man? That I believe to be in substance the question raised by the Initiative the Referendum, and the Recall, as they are now practically applied in at least one of the states in the Union, the example of which is held up as a model to the other states. With an infinitesimal responsibility, with only one vote in a million, how seriously would each one of us feel called upon to withdraw from his own private pursuits and to explore in all their details the complicated questions of government? It would be imposing an impossible task, scattered as we are and unable to take common council, to require us in the mass to direct the work of government.

First, with regard to the Initiative. In our legislation the work of investigation and of perfecting details is of such difficulty that proposed laws are distributed among various committees which are charged with the duty of considering their exact terms. The legislative body as a whole, although its members are paid for doing the work, cannot safely assume to pass upon the intricate questions of legislation without investigation by committees selected with reference to their fitness for the task. The proposed law as perfected by a committee is brought before the representative assembly and it is there again discussed and subjected to criticism, both as to policy and to form, and in this open discussion, defects often appear which require amendment, and sometimes the defeat of the bill. And even with these safeguards laws often find their way upon the statute books which are not best adapted to secure the purposes even of their authors.

But what would be the procedure under the Initiative? In Oregon a law may be initiated upon a petition of eight per cent of the voters, and it then goes to the people upon the question of its final enactment without the intervention of any legislature. Some man has a beautiful general idea for the advancement of mankind, but beautiful general ideas are exceedingly difficult to put into statutory form so that they may become the rule of conduct for a multitude of men. Another man may have some selfish project, which, like most selfish projects may be concealed under specious word. The beautiful idea of the selfish scheme is written by its author in the form of law and he proceeds to get the requisite number of signers to a petition. With a due



amount of energy and the payment of canvassers these signatures can be secured by the carload, and the proposed law then goes to the people for enactment, and the great mass of us, on the farm, on the hillside and in the city, proceed to take the last step in making a law which nine out of ten of us have never read. And this is called securing popular rights, and giving the people a larger share in their government!

The people, at the election in Oregon held in 1910, passed upon proposed laws which filled a volume of two hundred pages, and they passed upon them all in a single day, each voter recording his verdict at the polling booth upon both the candidates and the proposed laws. In the ordinary legislative body, made up of no different material from that of which the people are composed, an important question may be considered for a day, or even for a week: and then, with the arguments fresh in their minds, the legislators record their votes upon the single measure. What a delightful jumble we should have if forty different statutes were voted upon in the space of a half-hour by the members of a humdrum legislature!

Of course, one must be cautious about expressing a doubt that the people in their collective capacity can accomplish impossibilities. You may say of an individual that he should have some special preparation before he attempts to set a broken arm or perform a delicate operation upon the eye. But if you say that of all of us in a lump, some popular tribune will denounce you. And yet there is ground for the heretical suspicion, admitting that each one of the people may have in him the making of a great legislator, if there should be one simple prerequisite which he should observe in order to be any sort of a legislator at all. He should first read or attempt to understand the provisions of a bill before solemnly enacting it into law. One can scarcely be accused of begging the question to say that the voters would not read a whole volume of laws before voting upon them. The slightest knowledge of human nature would warrant that assertion.

How many even of the most intelligent of our people, of college professors, of ministers, read the statutes that have already been passed and that are to govern their conduct? Even lawyers are not apt to read them generally, but in connection with particular cases. But if some proof were necessary, one has only to cite some of the Oregon laws. For example, there are two methods of pursuing the salmon fisheries in the Columbia river: in the lower and sluggish waters of the stream, fishing is done by the net; and in the upper waters by the wheel. The net fishermen desired to prohibit fishing by the wheel, and they procured sufficient signatures and initiated a law having that object in view. On the other hand, the wheel fishermen at the same time wished to restrict fishing by the net, and they initiated a law for that purpose. Both laws went before the people at the same election and they generously passed them both, and thus, so far as the action of the

people was concerned, the great salmon fisheries of the Columbia were practically stopped.

A law was 'initiated' by signatures and was enacted by the people at the election in November, 1910, providing for the election of delegates to the national political convention by popular vote. The law forbade each voter to vote for more than one candidate. But upon the usual basis of apportionment Oregon was entitled to ten delegates in a national convention. If some candidate should be preeminently fitted above all others for the place and should receive all the votes, the state would have only a single delegate in the convention. If the voter has the right to vote for all the candidates for the whole representation of his state in the Electoral College, what semblance of a reason can there be why he should not have the same participation in the preliminary election, when the candidate, who may finally be elected president is to be chosen? The same law forbids the voter from voting for the nomination of more than one candidate for presidential elector. Thus the minority of a party in the state may nominate candidates for electors hostile to its presidential candidate.

If the vote of the presidential electors of Oregon shall not sometimes be divided, even though the popular vote may have been strongly in favor of a given candidate, it will not be the fault of this law.

It seems rather superfluous to cite instances to prove that where the final legislative body is denied the power of meeting and discussing the provisions of the proposed law, there will be loose and freakish legislation of the worst kind. Mr. Woodrow Wilson before he essayed the exacting role of the practical politician, declared before the students of Columbia University, that a government cannot act inorganically by masses. It must have a law-making body. It can no more make laws through its voters than it can make laws through its newspapers. And in the same course of lectures he declared that, "We sometimes allow ourselves to assume that the Initiative and the Referendum, now so much talked of and so imperfectly understood, are a more thorough means of getting up public opinion than the processes of our legislative assemblies. Many a radical program may get what may seem to be almost general approval if you listen only to those who know they will not have to handle the perilous matter of action, and to those who have merely formed an independent, that is, an isolated opinion, and have not entered into common counsel; but you will seldom find a deliberative assembly acting half so rapidly as its several members have professed themselves ready to act before they came together into one place and talked the matter over and contrived statutes."

After Mr. Wilson entered upon his political career, he changed his mind, but his recantation in no degree affects the weight of the argument to which I have referred. The common counsel of which he speaks is an indispensable process in the making of law, and whenever

our legislative bodies impose serious limitations upon the process it is usually to the detriment of the character of the laws passed; and the more grave and statesmanlike the deliberation of those charged with the responsibility the better it will be for the state. For this vital process there will be substituted the enthusiasm of somebody who believes he has devised some statutory cure-all for the ills that afflict the body politic and embodies his enthusiasm in a bill. He seconds himself, as any one may, with the necessary signatures to a petition; and then without coming together and taking common counsel, and often without reading what has been written, the great mass of us solemnly proceed to vote. Such a procedure would put a test upon the people under which no nation could long endure.

The Referendum is somewhat better than the Initiative, but as a settled policy in the making of ordinary statutes it is indefensible. It can be used upon complete propositions that are not complex in character, and especially upon constitutional propositions which ordinarily enunciate general principles. In the case of constitutional changes, however, they should never take effect without a support of a clear majority of the voters, and in advance of their action they should have the support of a large majority of the legislative body, such as is provided in Massachusetts, so that our constitution should have more stability than mere statutes and should not be subject to change with every passing breeze.

I may illustrate again from the example of Oregon,—which is pointed out by the friends of these plans as a model, and whose people are heroically subjecting themselves to political vivisection in the testing of governmental experiments. An amendment may be made to the constitution of that state by a majority of those who vote upon the proposition in question. An amendment was passed in one election by barely one third of the legal voters, which provided that in civil cases three-fourths of the jury might render a verdict that no new trial should be had where there was any evidence at all to sustain the verdict, and making another important change in the method of administering justice. Constitutional changes could not be made except in reference to a pronounced and settled public opinion, which cannot better be determined under our system than to require the action of successive legislatures and afterwards a direct vote of the people.

The Referendum may sometimes profitably be used in connection with questions affecting municipalities, where each voter has an appreciable interest in the solution of the question and is familiar with the conditions upon which the solution depends; but as a step in the process of passing statutes of the usual character, statutes which create crimes and provide penalties for their violation, or which have complicated regulations of a business character, the use of the Referendum would be



vicious. We are not in the mass adapted to pass upon questions of details, just as the thousands of stockholders of a great corporation are not in position to manage its business affairs. The function which we can best exercise is that of selecting agents for that purpose and holding them responsible for results. Upon the questions relating to the character of representatives, who are usually known personally to the people, they have excellent means for forming a judgment. But if they so often make a mistake in their judgment of the men they select, as we must infer from the arguments put forward in favor of direct legislation, how much more would they be apt to make mistakes in dealing with the complicated questions involved in practical legislation?

The Referendum takes away from the legislature the responsibility for the final passage of laws and permits it to shift the burden upon the people. Legislators will be asked: "Are you not willing to trust the people to say in their wisdom whether a given bill should be enacted?" The prevailing vice of members of law-making bodies in our country is not venality, it is political cowardice, and they will be ready to take refuge in that invitation to trust the people. A witty member of Congress from Mississippi once said that he usually found it easier to do wrong than to explain why he did right. There will be no such difficulty under the Referendum. The legislator may dodge the responsibility of voting upon some bad but specious law, where his political interest would lead him to vote one way and his sense of duty another way. He would only need to say that he believed in the people, and would vote to refer it to that supreme court of appeal. Even under the present system a legislator is quite too much influenced by the noisy demonstrations that may be made upon one side or the other of a pending proposition, and some of the worst laws that find their way upon the statute books get there, not because they are approved by the judgment of the legislator, but in response to what he thinks may be the wishes of the people. And instead of voting for what he honestly believed to be just and in the public interest, even against what may appear at the moment to be popular sentiment, and then bravely going before his constituents and attempting to educate them upon the question, he quite too often tacks and goes before the wind.

While the prevailing fault of legislative bodies is, as I have said, political cowardice, the fault of the voter is political indifference. There are far too few of us who carefully study public questions and try to secure exact information about them. We are attracted by sensational charges, by lurid headlines in the newspapers, and by generalities. We too often complacently accept the estimate that is placed upon our profound and exact political knowledge by the men who are asking us to vote for them, and we are far from giving that serious attention to the political issues which we bestow upon our own private affairs.



There is a lawyer of very high standing at the bar of his state who was astonished to be told that the House of Representatives had an established order of business which consumed the greater part of its time. He imagined that the speaker had practically unlimited discretion in recognition. Another intelligent man who was president of a great railroad could not give the name of his member of Congress, although he had probably voted for him ten years, if he had voted at all. Such instances are by no means rare, and intelligent people of that sort who neglect their public duties often become the easy victims of every -ism and -dum.

We are so engrossed in our private business that many of us give no attention to public questions, or we too frequently bestow upon the latter such superficial study that our action becomes the dangerous thing that is based upon little knowledge. This condition of indifference even under our present system, produces nothing but an evil effect upon the character of law; and this evil effect would be greatly intensified under the Initiative and Referendum. Legislation may be expected to represent in the long run the fair average of the information and the study of the body which enacts it, whether that body be composed of 400 legislators or 100,000,000 of people.

A reform that is most needed is one that will make difficult the passage of laws unless they repeal existing statutes. The mania of the time is too much legislation and the tendency to regulate everybody and everything by artificial enactments. The Referendum would not be likely to furnish the cure for this evil; but would tend to increase the number of questionable statutes that would be referred to the people; and some of them would doubtless be enacted. If those who are chosen and paid to do the work and upon whom the responsibility is placed, are sometimes found to enact vicious laws, what would be the result if legislation were enacted by all of us when we had made no special investigation of details, when we should be quite too prone to accept the declamatory recommendations of the advocates of legislative schemes, and submissively swallow the quack nostrums that might be offered for the diseases afflicting the body politic?

The most dangerous statutes are those which deal with admitted evils, and, in order to repress them, are so broadly drawn as to include great numbers of cases which should not fairly come within their scope, or to create a borderland of doubt where the great mass of us may not know how to regulate our conduct in order that we may comply with their prohibitions. Just such statutes, with a basis of justice but with imperfectly constructed details, would be most likely to prevail upon a popular vote. If the forty-six states of the Union and the national government which is the aggregate of them all, should have this system of direct legislation, our statute books would very probably

soon become a medley of ill considered reforms, of aspiration sought to be expressed in the cold prose of statutes, of emotional enactments perpetuating some passing popular whim and making it a rule of conduct for the future; and a strict enforcement of our laws would mean the destruction of our civilization.

Those who advocate the direct action of our great democracy might study with a good deal of profit the history of Athens. No more brilliant people ever existed than the Athenian people. They had a genius for government. The common man was able to think imperially. Their great philosopher, Aristotle, could well speak of the Athenians as a political animal. They achieved a development in literature and art which probably has never since been reached. They could boast of orators and philosophers to which those of no other nation can be compared. We marvel when we consider the surviving proofs of their civilization. But when they did away with all restraints on their direct action in the making and enforcement of laws, in administering justice and regulating foreign affairs their greatness was soon brought to an end, and they became the victims of the most odious tyranny to which any people could be subjected, the tyranny which results from their own unrestrained and unbridled action.

It is said that the history of those distant times can present no useful precedent for our own guidance; but in what respect is human nature different today? What ever new stars our telescopes may have discovered, whatever new inventions may have been brought to light, whatever advances may have been made in scientific knowledge, the mainsprings of human action are substantially the same today as they were in the time of the Greeks. We should be rash indeed to assume that we shall succeed where they failed and that we can disregard their experience with impunity.

But we are told that the crime of our age is the inordinate love of wealth, and that to protect ourselves from its evil we must set aside our existing institutions: but is the love of wealth any new thing? The greatest of ancient statesmen were accused of the grossest forms of bribery. Thousands of years ago the love of money was declared to be the root of all evil. It is not the fault of an age to be satisfied with itself. Poets have always been singing of a golden age, and they have placed it sometimes in the past, sometimes in the future, but never in the present. We may go back almost to the oldest of poets, Hesiod, and we shall find him placing the golden age far back of his own day, while his own time he pictures as one stained with plundering, with envy, brawling, and perjury. Horace in a lively ode sought a poets escape, and called upon the Roman citizens to abandon their wicked country and set sail for the mythical islands which Jupiter had set aside when he stained the golden age with brass and hardened the brazen ages into iron. And those islands were no more mythical than the refuge from

our own crimes which the inventors of the Initiative, the Referendum, and the Recall have pointed out to us.

In what respect should we have been better if, during the amazing physical development of the last two generations we had had direct democratic government? It cannot be contended that our legislators did not represent the people. If they had attempted by their votes to repress the universal sentiment for industrial expansion, they could not have remained in office. The people of the towns even of New England were found voting bonds as bonuses for the building of railroads, and exemptions from taxation in order to secure manufacturing plants. And in the growing west, the sentiment for empire and expansion was so strong that cities and towns were bidding against each other in the offer of gratuities and if it had not been for the occasional conservatism of legislatures and the issuing of injunctions by judges, who under the recall would quite likely have been thrown out of office, our western country would have been covered with communities which had made themselves bankrupt by the gratuitous issue of bonds in aid of factories and railroads; and we should probably not have attained anything approaching our present development, because of the check that would inevitably have come through the gross corruption of the system.

The advocates of direct government cite the examples of Oregon and Switzerland, where they point to results with an eloquence nowhere else to be found outside of a mining prospectus. Perhaps I have already referred sufficiently to Oregon. One must be easily satisfied who can be convinced by a careful scrutiny of the results in that state even though the experiment has been tried among her intelligent people. Switzerland is a small country, scarcely equal in area to some of our American counties, and a large proportion even of that small area is covered by uninhabitable mountains. The population is thrifty and conservative, and largely devoted to the work of caring for the vast number of tourists who annually visit the country. The conditions as to complexity of industry are radically different from those existing in America. But while Switzerland is one of the countries best adapted, as we certainly are one of the least adapted, to the operation of the Initiative and Referendum, the results there are not such as to justify their adoption in any other country, if we may credit the report made to the State Department by our Vice-Consul at Berne, and presented to the Senate by Mr. LaFollette on July 13, 1909. This report says:

"The great questions of centralization, civil status, laws of marriage and divorce, bankruptcy laws, the customs tariffs, the railroad purchase, employers' liability, factory laws, unity of the conflicting cantonal civil and criminal laws into a federal code, the military organization, the pure food law, etc., all of which are things of the past, were congressional measures. It may safely be said that the Initiative can be of decided and positive value only in districts small enough to enable



the average citizen to form a conscientious opinion upon projects of such local significance as to be well within his practical knowledge, but, in addition, he must exercise his duty as he sees it at the polls. With a comparatively small number of signatures requisite for an initiative measure, its danger lies in the fact that it may easily be prostituted by factions, cliques, malcontents, and demagogues, to force upon the people projects of partisan, freak, or unnecessary legislation."

As to the Referendum, there is no other veto power in Switzerland. While it is not so intelligently exercised as it would be by an upright executive, still it has occasionally proved an important check. The most striking results are seen in the relatively small number of voters who will vote upon laws; and while statutes have been passed to compel voting, their provision has simply increased the great number of blank votes.

The most serious tendency under our present system is seen in the multiplication of statutes, which threatens to destroy liberty, and even to engulf our civilization. But much of this legislative rubbish is the product of those who are given to exploiting themselves as the special champions of the people, or is a result of the readiness of the legislator to respond to what he thinks is the popular demand. The member who is most disposed to cast a negative vote is stigmatized as a reactionary. It is not difficult to place the most immature, visionary and apparently popular schemes upon the statute books of some of the older and, until recently, most conservative states of the Union. In one historic Commonwealth the principal avocation of the people soon promises to be politics, assuming that they shall pay due attention to their political duties, and the next 'reform' will not unnaturally be the passage of a law to pay the voter out of the public treasury for the demand made upon him in listening through each recurring summer to the wooing of self-constituted candidates,—and there can well be no other candidate; in voting upon their claims; and finally, in following the campaign conducted by the party, and in voting in the chief election. The essential remedy for checking legislation would seem to be the education of the people so that they will present a body of sound and definite opinion to which the representative may respond. This work must be done by the people themselves, and it can be aided greatly by the newspapers, if they will pander less to sensationalism, indulge less in defamations of the agencies of government, and seek to become the veracious chronicles of their times.

We should not experiment lightly with the fundamental principles of our government, and trust to our good fortune to escape danger. It is well to be an optimist, at least so far as faith is concerned in the final triumph of good in the universe, but we should be careful not to follow too willingly those professional optimists and political Micawbers who are always sure in whatever condition of danger we put



ourselves that something will turn up to our advantage. One of the most radical mistakes our nation ever made was contributed to in large measure by well-meaning people who employed eulogiums upon their own optimism instead of arguments, and denounced as pessimists those who did not cheerily agree with them. Faith that things will ultimately come out well, does not mean that we may recklessly take the next step.

It should be remembered that civilization has sometimes moved backwards for a time, that liberty has been submerged, and that great and powerful nations have been brought to naught. Instead of changing our system of government because of the existence of evils which have existed since the beginning of time, and instead of attempting to seek refuge in a demagogue's paradise, our people should be incited to study closely the problems of government, to set higher standards for their own conduct, with the result that higher standards will be followed by their chosen agents; and there is no evil for which the Initiative, Referendum, and the Recall are proposed as a remedy that cannot effectively be dealt with under our republican institutions, without the disintegration, the demoralization, and ultimate destruction of regulated liberty and of individual rights likely to follow from the application of those reactionary policies, just as they have followed them applied upon a large scale in history.

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### "WHY SHOULD WE CHANGE OUR FORM OF GOVERNMENT?"

(An Address by Nicholas Murray Butler, before the Commercial Club of St. Louis, November 27, 1911.)

Examine for a moment these suggestions in order to see what they really mean, to what they really lead. In the first place, please do not overlook the exceedingly important fact that all those who are uniting to urge upon us this transformation of our form of government invariably propose to put these instrumentalities of a direct democracy into operation upon the initiative of a very small fraction of the electorate. What a glorious time it would be for the perpetual disturbers of political peace! It is proposed, for instance, that 5 per cent or 8 per cent of the electorate shall be sufficient to initiate legislation and to demand a poll of the people thereon. Legislation so initiated can not be amended or perfected in form. It cannot be examined in committee, its sponsors can not be cross-questioned; it must be taken or left precisely as they project it into the political arena. Is there any community in the world where 5 per cent of the adult males can not be gotten to sign a petition for anything? Is there any community in the world where if 5 per cent of the adult males had petitioned for some-

thing that had been denied, they could not be gotten to petition for it again without delay? Would not life under this system become one long series of elections? Should we not be chasing each other to the polls once a week to pass upon some new legislative proposal, and not always one presented by the wisest and most thoughtful citizens? What would be the effect of all this on the members of our legislative bodies, National and State? Are the best men in your community going to accept nomination and election to a legislative body any one of whose acts, however carefully formulated, may be brought up for review and possibly overturned on the initiative of 5 per cent of the voting population? We complain that we do not always get the men we would most like to see in the State and National legislatures. Should we get a better class of representatives, or worse, if we took away their sense of responsibility, took away their dignity and authority, and set ourselves up on every side to duplicate or possibly to overturn their every act? There is only one possible answer to that question. We should degrade our legislative bodies and reduce them to intellectual, moral, and political impotence.

Of all the proposals that have been brought forward in the name of direct democracy the initiative is the most preposterous, and the most vicious. It is far more objectionable than the referendum, which is ordinarily bracketed with it, because it is intended to project a legislative proposal upon the community at the instigation of a very small number of people, which proposal must then be passed upon without amendment; without any opportunity to perfect it, even in phraseology; without any chance to receive and act upon suggestions for its extension, its narrowing, or its betterment; and without opportunity for any one of the processes of discussion and revision which are offered to-day by the operation of the rules of procedure which control legislative bodies and their committees. Under the action of the initiative, a community is called upon to say yes or no to a proposal framed by 5 per cent of anybody. I submit that this is very like having to answer the question, "Have you left off beating your grandmother"? If you answer "yes" you embarrass yourself; if you answer "no" you embarrass yourself still more.

All that can possibly be accomplished by the initiative is to strike the heaviest possible blow at representative institutions, and to remove the last inducement to bring able, reflective, and intelligent men to accept service in a legislative body. The initiative will result in registering in more or less rapid succession the consecutive emotions of a small proportion of the electorate; because if you will examine the records where the initiative has been introduced, you will see that whatever action has been taken has been so taken by the vote of a small minority of the voting population. Consideration by chosen representatives disappears, the perfecting of a measure through committee consideration and public debate is made impossible; some preconceived scheme

for which there is a sentiment among a small portion of the community must be accepted or rejected in toto.

This is not a policy which makes for stable and consistent government. This is not a progressive policy. This is not a policy which will develop and strengthen the institutions that we have inherited and that we are seeking to apply to new conditions. This is not a policy which will bring support to the fundamental guarantees of civil and political liberty upon which our National Government rests.

But it may be urged, surely those fundamental guarantees are not questioned or doubted. I beg to assure you that every single one of them is questioned and doubted in this country, and questioned and doubted by no inconsiderable body of opinion, some of it not lacking in intelligence, very energetically represented in different parts of the United States. We may close our eyes to all of this if we like. We may with our consummate American hopefulness and optimism say that it will turn out all right; perhaps it will; but the fact remains that there are some of us who believe that the fundamental guarantees which underlie our whole National Government and our national life can not be attacked, can not be denied, can not be made light of, without serious danger to our entire political fabric.

Should not the majority rule? If the majority wish to sweep away all the fundamental guarantees, should they not be permitted to do so? Is that not one of the risks that democratic government must run? Those who believe that we learn nothing in this world from human experience, may if they choose, answer those questions in the affirmative. Those who believe that nothing in the world is fixed or definite or a matter of principle, may answer those questions in the affirmative; but those who believe that we do move forward through the centuries by building upon and using the experience of those who have gone before; those who believe that out of the thousand or two thousand years of political life and activity of the western world there have come some principles which are certain and which abide, and some political guarantees that are vital to human welfare, they will answer those questions, no; a thousand times no! Those who believe that we must build our institutions upon foundations that are not subject to continual revision and reconstruction will answer, no; a thousand times no! We point to the fundamental guarantees of the British and American Constitutions, and say that those are beyond the legitimate reach of any majority because they are established in the fundamental laws of human nature upon which all government and civilization and progress rest. Sweep them away, if you will; a majority may have the power, but with the power does not go the right. If they are swept away, all government and all liberty go with them, and anarchy, in which might alone makes right, and power alone gives place, will rise upon their ruins.



There is nothing new about all this. Aristotle pointed out that democracy has many points of resemblance with tyranny. It was he who first told us how a democracy as well as a tyranny may become a despotism. It was he who first pointed out to us the likeness that there is between the demagogue in a democracy and the court favorite in a tyranny. If democracy is not to become a tyranny, it must recognize and build upon those constitutional limitations and guarantees that are so precious to the individual citizen and that protect him in his life, his liberty, and his property. It is not in the power of any majority to sweep these away without sweeping away with them the whole fabric of the state in violent and destructive revolution. The other day, in turning over the pages of John C. Calhoun, I came upon a most extraordinary sentence which bears upon this very point. Almost a century ago Calhoun wrote these words:

"The government of the uncontrolled numerical majority is but the absolute and despotic form of popular government, just as the uncontrolled will of one man is monarchy."

Control there must always be if there is to be liberty. That control is law, built in turn upon those limitations and guarantees which are our Constitution. It is just as easy for a majority to become a despot as for a monarch to become a tyrant; even a tyrant may be benevolent; even a democratic despotism may be malevolent.

We are not invited to treat these constitutional limitations and guarantees just as we treat mere statutory legislation. They are to be revised, to be amended, to be overturned, in order that the sacred will of a temporary majority may be everywhere and always enacted into constitutional law. To walk in these paths means the suppression of the individual as the unit in the scheme of liberty. It means the extinction of liberty as we have shown it. It means what I call a socialistic democracy because it means that the majority will take direct and responsible control of your life, your liberty, and your property. All that constitutes individuality will have gone by the board; it will have been poured into the great boiling pot of the social whole, there to be reduced to a single incoherent mass to be exploited, as the will of this or that majority may from moment to moment determine and advise. This may be progress, but it is certainly revolution.

Then there is another device urged upon us in the name of progress, known as the referendum. This differs widely from the initiative, and has no possible relationship to it. It is in effect a popular veto on the acts of the legislature. Our American institutions provide almost without exception for an executive veto. The executive veto exists for the purpose not necessarily of permanently defeating legislation, but to compel its reconsideration, its public discussion, and its restudy by the people themselves, by the press, and by the people's representatives. It is a wise and appropriate institution. Experience has shown that while



it is not often used, it may serve, and does serve, as a check upon hasty and ill-considered legislative action.

The referendum, however, is quite different from the executive veto, and, in the form in which it is now urged, is like the initiative in that it tends to destroy the responsibility of the legislator and to make the legislature itself a very subordinate and timid body. If any community or State insists upon subjecting the ordinary work of its legislature to a general referendum it insists at the same time that it shall be served in its legislature by second-rate and third-rate men, and that its representatives be turned into delegates. Edmund Burke would find no place in such a scheme of politics as that. Once more, I say, to introduce the referendum, as a check upon the legislature may be progress, but I insist that if it is progress it is also revolution. It is revolution because it strips away more and more elements of strength, independence, and power from the legislature. The legislature exists in order that different views may be studied and compared, in order that acts may be considered and perfected by hearing all parties and all interests, in order that amendment and discussion may be possible. All this is stripped away if there is behind each legislator's chair a controlling force which says, "If you do so and so we shall upset it by a general vote, as we, your creators, have a right to do."

Lord Acton in one of his essays, I think it is the one on the history of liberty, pointed out some years ago that the referendum, whatever may be said in its favor theoretically, is obnoxious to all believers in representative institutions, because it contemplates decision without discussion. Of course, there is discussion in one sense, but there is no discussion which could in any way operate to perfect a pending proposal; there is no discussion possible that can lead to the amendment or improvement of a proposal. The only discussion that can possibly take place is that which will confirm men in their attitude toward the proposition which is pending.

Of course we are in this country, accustomed to a certain limited use of the principle of referendum. State institutions, as a rule, State amendments, almost uniformly, are passed upon by the people as a whole. The same is true often in the case of large financial undertakings or bond issues. If the legislature itself takes and may take the initiative in submitting a question to a referendum vote, the damage is in so far limited. To force a referendum vote upon the legislature by constitutional provision would be, however, to inflict the maximum amount of damage upon the representative principle. As a matter of fact, no legislature should seek to shirk responsibility; that is the part of weak and timid men. More than half a century ago the Court of Appeals of the State of New York, in the well known case of *Barto v. Himrod*, laid down the true doctrine on this subject in no uncertain terms. The court used this language:

"The representatives of the people are the lawmakers, and they are responsible to their constituents for their conduct in this capacity. By following the directions of the constitution each member has an opportunity of proposing amendments. The general policy of the law, as well as the fitness of its details, is open to discussion. The popular feeling is expressed through their representatives; and the latter are enlightened and influenced more or less by the discussions of the public press.

"A complicated system can only be perfected by a body composed of a limited number, with power to make amendments and to enjoy the benefit of free discussion and consultation. This can never be accomplished with reference to such a system when submitted to a vote of the people. They must take the system proposed or nothing. They can adopt no amendments, however obvious may be their necessity. . . . All the safeguards which the constitution has provided are broken down, and the members of the legislature are allowed to evade the responsibility which belongs to their office. . . . If this mode of legislation is permitted and becomes general, it will soon bring to a close the whole system of representative government which has been so justly our pride. The legislature will become an irresponsible cabal, too timid to assume the responsibility of law-givers, and with just wisdom enough to devise subtle schemes of imposture to mislead the people. All the checks against improvident legislation will be swept away, and the character of the constitution will be radically changed."

Do you fully realize with what levity we are now passing upon this important issue of the referendum in this country? Do you realize in what complexity important governmental proposals are being submitted to thousands and tens of thousands of voters, and with what light-hearted frivolity they are being passed upon? A few weeks ago the great State of California, one of the most intelligent and wealthiest States in the Union, completely revolutionized its form of government by passing at one and the same election 23 amendments to its constitution by enormous majorities. It has, however, escaped attention that the total vote cast for and against these revolutionary proposals was about 60 per cent of the vote cast for President in 1908, or that cast for governor in 1910. Apparently the number of people in California who are interested in their form of government are only about six-tenths of the number that were interested in who should be President of the United States or who should be governor of the State. Of the 23 amendments that were presented to the people of California on one and the same ballot, some half dozen were genuine constitutional amendments; the rest were almost without exception matters of legislation, some of them very trifling.

If you have not already seen it, I want to show you the document that was sent by the secretary of the state of California to every regis-

tered voter in the State. (Here the speaker exhibited a large sheet closely printed on both sides). You will observe that the State officials who got up this amazing document did not expect it to be read by anybody. It is solidly printed in small type on both sides of one sheet, and there is the trifling little matter of a supplement with three or four amendments on a separate sheet. Here are printed the questions that were submitted not to the Court of Appeals of California, not to the professors of political science in the State university, not even to the legislature of the State, but to the voters! I submit that the whole proceeding is ridiculous. Look at these pieces of paper. In 1908, 386,000 voted for President in California; in 1910, 385,000 voted for governor. The highest vote cast on October 10 last for any of these amendments was cast in regard to the amendment relating to women's suffrage. The total vote on that amendment was 246,000; 140,000 fewer than were polled three years before for President, and 139,000 fewer than were polled two years ago for the governor. Women's suffrage was carried in California by an affirmative vote of 125,000 or 2,000 less than Mr. Bryan received in 1908, when he lost the State by nearly 90,000 majority.

Is it not obvious then, that we are changing our form of government in the United States by a minority vote? Here is an amendment which doubles the number of voters in the state by removing the limitation of sex; here is action which establishes the initiative, the referendum, the recall, including the recall of judges; and every one of them is an amendment to the constitution of a great, rich, and populous state, made by a small minority of the voting population. That, I submit, is a political factor and a political portent of far reaching significance. I know the answer. It is said that the remainder of the voting population might have voted had it wished to do so. True; but why then should not this great non-voting mass be counted in opposition to revolutionary changes in government rather than in favor of them, or ignored entirely? What principle of political science or of equity is it that puts the institutions of a whole State at the mercy, not even of a temporary majority, but of a small minority of the people?

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### "THE CONSTITUTION AND ITS MAKERS"

(An Address by Henry Cabot Lodge, before the Literary and Historical Society of North Carolina, Raleigh, N. C., November 28, 1911.)

The voluntary referendum has always existed in this country. In the National Government, owing to our dual or Federal form, the referendum on constitutional amendments is necessarily made to the states and it has never been suggested for the laws of the United States, owing to both physical and constitutional difficulties. In the States the referendum has always been freely used, not only for constitutions and



constitutional amendments, but for laws, especially for city charters, local franchises, and the like. But if, on the demand of a minority of the voters, the referendum is made compulsory all responsibility vanishes from the representative body. The representative no longer seeks to represent the whole people or even his own constituency, but simply votes to refer everything to the voters, and excuses himself completely, pointing to the compulsory referendum. On the other hand, the voters are called upon to legislate. Of the mass of measures submitted they know and can know nothing. Experience shows that in all referendums a large proportion of the voters decline to vote. Whether this is due to indifference or lack of information the result is the same. It proves that this system demands from the voters what the most intelligent voters in the world are unable to give. They are required to pass upon laws, many of which they have neither time nor opportunity to understand, without deliberation and without any discussion except what they can gather from the campaign orator, who is, as a rule, interested in other matters, or from an occasional article in a newspaper. They can not alter or amend. They must vote categorically "yes" or "no". The majority either fails to vote, and the small and interested minority carries its measure, or the majority, in disgust, votes down all measures submitted, good and bad alike, because they do not understand them and will not vote without knowing what their votes mean.

The great laws which, both in England and the United States, have been the landmarks of freedom and made ordered liberty possible were not passed and never could have been perfected and passed in such a way as this. This new plan is spoken of by its advocates as progressive. As a matter of fact, it is the reverse of progressive, it is reactionary. Direct legislation by popular vote was familiar, painfully familiar, to Greece and Rome. In both it led through corruption, violence, and disorder to autocracy and despotism. The direct-vote system also proved itself utterly incapable of the government of an extended empire and of large populations. Where government by direct vote miserably failed, representative government, after all deductions have been made, has brilliantly succeeded. The development of the principle and practice of representative government was, as I have already pointed out, the one great contribution of modern times to the science of government. It has shown itself capable of preserving popular rights without the violence and corruption which resulted of old in anarchy and despotism; and at the same time it has proved its adaptability to the management of large populations and the efficient government of great empires. Representative government was an enormous advance over government by the direct vote of the forum, the agora, or the marketplace, which had preceded it, and which had gone down in disaster. It is now proposed to abandon that great advance and to return to the ancient system with its dark record of disorder and failure. This is



not progress. It is retreat and retrogression. It is the abandonment of a great advance and a return to that which is not only old and outworn, but which history and experience have alike discredited.

The Congress of the United States embodies the representative principle. The principle of representation, I repeat, has been the great contribution of the English-speaking race to the science and practice of government. The Greeks and the Romans, let me say once more, place pure democracy and legislation by direct vote in history, at least, we have but to read Plato's Republic and The Laws to learn the defects of the System used in Athens. Greece failed to establish an empire; she touched the highest peaks of civilization, and finally went to pieces politically beneath the onset of Rome. Rome established a great empire, but, after years of bloody struggles between aristocracy and democracy it ended in a simple despotism. The free cities of Italy oscillated between anarchy and tyranny, only to fall victims in the end to foreign masters. In Florence they had elections every three months and a complication of committees and councils to interpret the popular will. Yet the result was the Medicis and the Hapsburgs.

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#### SPECIAL MESSAGE OF THE PRESIDENT

(By William Howard Taft, Vetoing the Resolution granting Statehood to Arizona.)

A government is for the benefit of all the people. We believe that this benefit is best accomplished by popular government, because in the long run each class of individuals is apt to secure better provision for themselves through their own voice than through the altruistic interest of others, however intelligent or philanthropic. The wisdom of ages has taught that no government can exist except in accordance with laws and unless the people under it either obey the laws voluntarily or are made to obey them. In a popular government the laws are made by the people—not by all the people—but by those who are supposed and declared to be competent for the purpose, as males over 21 years of age, and not by all of these—but by a majority of them only. Now as the government is for all the people, and is not solely for a majority of them, the majority in exercising the control either directly or through its agents is bound to exercise the power for the benefit of the minority as well as the majority. But all have recognized that the majority of a people unrestrained by law, when aroused and without the sobering effect of deliberation and discussion, may do injustice to the minority or to the individual when the selfish interest of the majority prompts. Hence arises the necessity for a constitution by which the will of the majority shall be permitted to guide the course of the government only under controlling checks that experience has shown to be necessary to secure for the minority its share of the benefit to

the whole people that a popular government is established to bestow. A popular government is not a government of the majority, by a majority, for a majority of the people. It is a government of the whole people, by a majority of the whole people under such rules and checks as will secure a wise, just and beneficent government for all the people. It is said you can always trust the people to do justice. If that means all the people and they all agree, you can. But ordinarily they do not all agree, and the maxim is interpreted to mean that you can always trust a majority of the people. This is not invariable true; and every limitation imposed by the people upon the power of the majority in their constitutions is an admission that it is not always true. No honest man, however great a lover of popular government, can deny that the unbridled expression of the majority of a community converted hastily into law or action would sometimes make a government tyrannical and cruel. Constitutions are checks upon the hasty action of the majority. They are self imposed restraints of a whole people upon a majority of them to secure sober action and a respect for the rights of the minority and of the individual in his relation to other individuals and in his relation to the whole people in their character as a state or government.

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#### “VOTING ORGANIC LAWS”

(By R. E. Cushman, in *Political Science Quarterly*, June 1913.)

One of the most interesting questions raised by the referendum and one that is well worth while to try to answer in studying the popular vote on the Ohio constitution of 1912, concerns the intelligence displayed in the acceptance or rejection of proposals. How clearly did the voters of Ohio understand what they were voting on? The task imposed on the citizen who wished to vote intelligently was no slight one. He must read the text of each amendment and some explanation or discussion of it. If he delayed his investigation until he reached the polls, he was confronted with thirty-six inches of fundamental political and economic problems. Could he vote upon them with coolness and wisdom then?

Perhaps the most striking instance of unintelligent action is to be found in the vote on the schedule of amendments, which, strangely enough, was submitted as a separate proposition. It is inconceivable that any sane man who voted for even one amendment should desire the defeat of the schedule which was necessary to put that one amendment into effect. The voters of twenty-six counties, however, after having approved anywhere from one to twenty-five amendments, complacently rejected the schedule; and there was not a county in which the opposition to the schedule was not greater than the opposition to some of the other amendments. Obviously, to the minds of thousands

of voters, the word "schedule" conveyed no idea, and they were taking no chances.

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### "THE DIRECT RULE OF THE PEOPLE"

(By George Kennan in the *North American Review*, August, 1913..)

The evils of direct popular rule in Oregon, where it has been on trial for ten years, are summed up by one of its friends as follows:

1. The cost of direct legislation has been high in proportion to the results achieved.

2. The Oregon constitution has been seriously weakened, its safeguards entirely destroyed, and its very existence threatened, by a minority of the voters of the state.

3. The people have passed laws against their interests and their convictions. They have been fooled by men who claimed to trust the people, but who, afraid to submit measures honestly, so disguised them that they succeeded in passing.

4. The machinery of direct legislation has fallen into the hands of dishonest men, who for money and spite have abused the privilege of direct legislation, and who, in the name of the people, have misrepresented our citizenship and brought disgrace upon the state.



## Bibliography of the Initiative and Referendum

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Below is given a list of publications which contain valuable material on the query under consideration. The books and magazines can be secured from their publishers, and the Senate and House Documents and Congressional Records can be secured through the North Carolina Senators and Representatives in Congress, or direct from the Superintendent of Documents, Washington, D. C. If obtained from the Superintendent of Documents they have to be paid for with coin or money order (not stamps) at from five to ten cents each. It may be possible in some instances to secure them free of charge from the Senators and Representatives. Further information and material can be secured through the National Popular Government League, 913 Munsey Building, Washington, D. C. It would be well for every school to get in communication with this League.

It is recommended that the four following publications be purchased as they furnish exceedingly valuable material. They are numbered in the order of their importance.

1. *Annals of the American Academy of Political and Social Science*, Volume 43, September, 1912. This whole number, consisting of 352 pages, is devoted to an excellent consideration of the Initiative, Referendum, and Recall. Published in Philadelphia by the American Academy of Political and Social Science, 36th and Woodland Avenue. Price \$1.00.

2. W. B. Munro—"The Initiative, Referendum, and Recall." 365 pages. Published by D. Appleton & Company, New York, N. Y., 1912. Price \$1.50.

3. Debater's Handbook Series—"The Initiative and Referendum." Published by the H. W. Wilson Company, Minneapolis, Minn. Price \$1.00.

4. E. P. Oberholtzer—"The Referendum in America, with Chapters on the Initiative and Recall." 533 pages. Published by Charles Scribner's Sons, New York, N. Y., 1911. Price \$2.25.

5. In the preparation of the debate such dictionaries, encyclopedias, almanacs, reference books—the American Commonwealth, by James Bryce, for example—and files of magazines as are to be found in the local school or city library should be carefully consulted.

Other publications in addition to those given already are indicated in the following list which is intended to be suggestive rather than complete.

## GENERAL REFERENCES

*Political Science Quarterly*, Volume 28, pages 18 to 33, March, 1913. "People's Rule on Trial." An analysis of the results of the Oregon election, November 5th, 1912.

*Political Science Quarterly*, Volume 28, pages 107 to 229, June, 1913. "Voting Organic Laws: The Action of the Ohio Electorate in the Revision of the State Constitution in 1912."

These papers summarize in a specific way the latest important elections in which the principles of the Initiative and Referendum were involved. They may be secured from the *Political Science Quarterly*, published by Ginn and Company, Lancaster, Pa., for 75 cents each. They will prove very helpful in the preparation of the debates.

## AFFIRMATIVE REFERENCES

*Senate and House Documents and Congressional Records*

Hon. Jonathan Bourne, Jr.—Article on "Initiative, Referendum, and Recall," Senate Document No. 302, 2nd Session, 62nd Congress.

Hon. Jonathan Bourne, Jr.—Speech on "Popular Versus Delegated Government," Senate Document, No. 524, 2nd Session, 61st Congress.

Hon. C. F. Taylor—"Error in Reasoning Relative to the Initiative, Referendum, and Recall." Senate Document No. 651, 2nd Session, 62nd Congress.

Hon. H. S. Bigelow—"Initiative and Referendum." Senate Document No. 556, 2nd Session, 62nd Congress.

Hon. Judson King—"New Dangers to Majority Rule." Senate Document No. 897, 2nd Session, 62nd Congress.

Senator R. M. LaFollette—"The Initiative in Switzerland." Senate Document no. 126, 1st Session, 61st Congress.

Hon. Theodore Roosevelt—"The Right of the People to Rule." Senate Document No. 473, 2nd Session, 62nd Congress.

Hon. Theodore Roosevelt—"A Charter of Democracy." Senate Document no. 348, 2nd Session, 62nd Congress.

Senator R. L. Owen—"Representative Government." Senate Document No. 624, 2nd Session, 61st Congress.

Senator R. L. Owen—"People's Rule Versus Boss Rule." Congressional Record for March 3, 1913.

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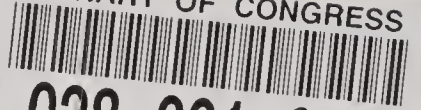
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